City of San Jose - PBCE – Planning Division - Imaging Index Cover Sheet

Address/Location: **SE/C WINCHESTER BLVD & DAVID AV*WINCHESTER BLVD*DAVID AV (1462 S WINCHESTER BL)**

Permit/Project No.: **H80-063** Issuance Date: **11/26/80**

Prepped By: **FMAGGI** Closed By: **SADVANI** RSN: **907705**

Category	Document Type	Sub Document Type
☐ (EF) Environmental Files (203)	☐ (PP) Public Project Files (203-03)	☐ (EN) EIR ☐ (DA) Approved Document ☐ (EM) Maps ☐ (AE) Application ☐ (AG) Agency Correspondence ☐ (EG) General Correspondence ☐ (TR) Technical Reports ☐ (RE) Archaeological Reports ☐ (EP) Plans
☐ (GP) General Plan (204)	☐ (GA) General Plan Amendments (204-02)	☐ (AM) Amendment ☐ (AA) Application ☐ (CG) Correspondence
	☐ (GE) Environmental Review (for 204 series GP Amendments)	☐ (GD) Approved Document ☐ (GI) EIR ☐ (GS) Supporting Documents ☐ (GT) Technical Reports ☐ (GR) Archaeological
☒ (DR) Development Review (207)	☐ (PR) Projects (207-02, 207-03, etc.)	☐ (ZN) Zoning ☐ (PE) Permit ☐ (MP) Maps ☐ (AP) Application ☐ (AC) Agency Correspondence ☐ (GC) General Correspondence ☐ (PL) Plans
	☒ (ER) Environmental Review (for 207 series Project Files)	☒ (EA) Approved Document ☐ (EI) EIR ☐ (ES) Supporting Documents ☐ (ET) Technical Reports ☐ (AR) Archaeological
	☐ (AD) Adjustments (207-12)	☐ (DO) Documents ☐ (PA) Plans
	☐ (PI) Public Info Letters (207-29)	☐ (LE) Letter ☐ (LS) Supporting Docs

FIRST AMENDMENT TO THE DRAFT ENVIRONMENTAL IMPACT REPORT

for the

CREEKSIDE PLAZA

SITE DEVELOPMENT PERMIT

Prepared by the

City of San Jose

March 16, 2001

Site Development Permit File No. H00-08063
SCH No. 2000-102049

PREFACE

This document, together with the Draft Environmental Impact Report (DEIR) constitutes the Final Environmental Impact Report (FEIR) for the proposed Creekside Plaza Site Development Permit in San Jose, California. The DEIR was circulated to affected public agencies and interested parties for a 45-day review period. This Amendment consists of comments received by the Lead Agency, the City of San Jose, on the DEIR, responses to those comments, and revisions to the text of the DEIR.

In conformance with the CEQA Guidelines, the FEIR provides objective information regarding the environmental consequences of the proposed project. The FEIR also examines mitigation measures and alternatives to the project intended to reduce or eliminate significant environmental impacts. The FEIR is used by the City and other Responsible Agencies in making decisions regarding the project. The CEQA Guidelines require that, while the information in the FEIR does not control the agency's ultimate discretion on the project, the agency must respond to each significant effect identified in the DEIR by making written findings for each of those significant effects. According to State Public Resources Code (§21081), no public agency shall approve or carry out a project for which an environmental impact report has been certified which identifies one or more significant effects on the environment that would occur if the project is approved or carried out unless both of the following occur:

(a) The public agency makes one or more of the following findings with respect to each significant effect:

(1) Changes or alterations have been required in, or incorporated into, the project which will mitigate or avoid the significant effects on the environment.

(2) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.

(3) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities of highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.

(b) With respect to significant effects which were subject to a finding under paragraph (3) of subdivision (a), the public agency finds that specific overriding economic, legal, social, technological, or other benefits of the project outweigh the significant effects on the environment.

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RESOLUTION NO. 01-143

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN JOSE FINDING A FINAL ENVIRONMENTAL IMPACT REPORT IS COMPLETE FOR THE CREEKSIDE PLAZA PROJECT SITE DEVELOPMENT PERMIT AND FINDING SAID REPORT CONFORMS TO THE REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SAN JOSE:

WHEREAS, pursuant to TITLE 21 of the San Jose Municipal Code, the City of San Jose (hereinafter called "City") is lead agency for a project for which an Environmental Impact Report (hereinafter called "EIR") was required on the Creekside Plaza Project Site Development Permit, concerning that certain real property hereinafter referred to as the "subject property", described in the Final EIR as approximately 17.4 acres of land within the Rincon de Los Esteros Redevelopment Project Area within the City of San Jose located northwest of Ridder Park Drive between Brokaw Road, Coyote Creek, and Interstate 880 and which description is made a part hereof by reference as though fully set forth herein; and

WHEREAS, the Director of Planning, pursuant to and in accordance with said Title has prepared and filed with this Commission a Final EIR, File No. H 00-08-063, relating to said subject property, which Final EIR is composed of the Draft EIR prepared for the proposed project, and the First Amendment to the Draft EIR; and

WHEREAS, pursuant to and in accordance with said Title 21, the Director of Planning did send a copy of the Draft EIR to each public agency having jurisdiction by law of said proposed project, advising such agencies to review and submit written comments, if any, to this Commission in the time and manner specified in said Title 21; and

WHEREAS, the Director prepared or caused to be prepared responses to all comments timely received on the Draft EIR, which responses are included in the Final EIR; and

WHEREAS, the Director sent prepared responses to all comments to agencies and organizations that submitted timely comments ten days prior to the Planning Commission public hearing; and

WHEREAS, pursuant to and in accordance with said Title 21, this Commission conducted a public hearing on said Final EIR, notice of which was duly given; and

WHEREAS, at said public hearing, this Commission gave all persons full opportunity to be heard and to present evidence and testimony respecting said Final EIR; and

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission as follows:

SECTION 1. This Commission hereby finds, determines and declares that the Final EIR for the proposed project described as the Creekside Plaza Project Site Development Permit, is complete and conforms to the requirements of the California Environmental Quality Act and represents the independent judgment of the City.

SECTION 2. The Director of Planning, Building & Code Enforcement shall read and consider the Final EIR as the decision-making body on the proposed project unless the Director's decision is appealed in which case the Planning Commission will be the decision making body on the proposed project.

ADOPTED and issued this 28th day of March, 2001, by the following vote:

AYES: ROSS, LEVY, CHUN HOO, DHILLON, JAMES, ZAMORA

NOES: NONE

ABSENT: GODBOLT

Chair

ATTEST:

James R. Derryberry, Secretary

Deputy
RE 207-002

SITE DEVELOPMENT PERMIT FILE NO. H00-08-063

WRITTEN ADMINISTRATIVE DECISION OF THE DIRECTOR OF PLANNING, BUILDING & CODE ENFORCEMENT OF THE CITY OF SAN JOSE MAKING CERTAIN FINDINGS CONCERNING MITIGATION MEASURES AND ALTERNATIVES AND ADOPTING A MITIGATION MONITORING AND REPORTING PROGRAM IN ACCORDANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT FOR THE CREEKSIDE PLAZA PROJECT FOR WHICH AN ENVIRONMENTAL IMPACT REPORT HAS BEEN PREPARED.

WHEREAS, the Planning Commission of the City of San Jose held a noticed public hearing to consider the Final Environmental Impact Report ("FEIR") for the Creekside Plaza project ("Project") in accordance with Chapter 21.07 of the San Jose Municipal Code and the requirements of the California Environmental Quality Act ("CEQA") and CEQA Guidelines; and

WHEREAS, prior to adoption of this Resolution, the Planning Commission of the City of San Jose has certified that the FEIR for the Project was completed in accordance with the requirements of CEQA; and

WHEREAS, Title 20 of the San Jose Municipal Code requires the Director of Planning, Building and Code Enforcement, or the Planning Commission on appeal, to approve a Site Development Permit for the Project; and

WHEREAS, CEQA requires each public agency to make one or more written findings for each significant environmental effect of the Project before it is approved accompanied by a brief explanation of the rationale for each finding supported by substantial evidence in the record; and

NOW THEREFORE, BE IT RESOLVED:

THAT THE DIRECTOR OF PLANNING, BUILDING & CODE ENFORCEMENT does hereby find that he has independently reviewed and analyzed the FEIR and other information in the record and has considered the information contained therein including the written and oral comments received at the public hearings on the FEIR on the Project, prior to acting upon or approving the Project, and has found that the FEIR represents the independent judgment of the City of San Jose as Lead Agency for the Project, and designates the Director of Planning, Building and Code Enforcement at his office at 801 North First Street, Room 400, San Jose, California 95110, as the custodian of documents and records of proceedings on which this decision is based; and

THAT THE DIRECTOR OF PLANNING, BUILDING & CODE ENFORCEMENT does hereby make the following findings with respect to significant effects on the environment of such Project, as identified in the FEIR;

I. BIOLOGICAL RESOURCES

A. Impacts to Nesting Raptors

1. **Impact.** The Project could result in direct impacts to nesting raptors during construction. **(Significant Impact)**

2. **Mitigation.** Preconstruction surveys for nesting raptors (such as White Tailed Kite and Loggerhead Shrike) will be conducted to ensure that no raptor nests will be disturbed during construction. Surveys will be conducted no more than 14 days prior to the initiation of construction activities during January through April (the early part of the breeding season) and no more than 30 days prior to the initiation of construction activities during May through September (the latter part of the breeding season). During preconstruction surveys, all trees in and immediately adjacent to construction areas will be inspected for raptor nests. If an active raptor nest is found, a construction-free buffer zone (typically 250 feet) will be established around the nest for the duration of breeding activity until young birds have fledged.

   In conformance with federal and state regulations regarding protection of raptors, appropriate preconstruction surveys for Burrowing Owls following California Department of Fish and Game protocols will be completed prior to any development to ensure that owls have not moved onto the site. Preconstruction surveys for Burrowing Owls will be conducted no more than 30 days prior to the start of site grading. If breeding owls are located on or immediately adjacent to the site, a construction-free buffer zone (typically 250 feet) around the active burrow will be established for the duration of breeding by owls until young birds have fledged.

3. **Finding.** Requiring the project applicant to implement the mitigation measures on pages 33 and 34 in the FEIR is a feasible way to reduce impacts to nesting raptors to a less than significant level and is hereby adopted.

B. Impacts to Aquatic Habitat in Coyote Creek

1. **Impact.** Development of the Project site could increase the amount of toxic contaminants and sediment in storm water runoff, which could adversely effect aquatic habitat in Coyote Creek. **(Significant Impact)**

2. **Mitigation.** The Project will comply with the National Pollutant Discharge Elimination System (NPDES) General Construction Activity Storm Water Permit administered by the Regional Water Quality Control Board. Prior to construction grading for the proposed land uses, the applicant will file a "Notice of Intent" (NOI) to comply with the General Permit and prepare a Storm Water Pollution Prevention Plan (SWPPP) which addresses measures that would be included in the Project to minimize and control construction and post-construction runoff. The SWPPP will be submitted to the City of San Jose Department of Environmental Services. The following measures would be included in the SWPPP:

- Preclude non-storm water discharges to the storm water system.
- Perform monitoring of discharges to the storm water system.

The Project will submit a copy of the draft SWPPP to the City of San Jose Department of Environmental Services for review and approval prior to construction of the project.

The Project will comply with the City of San Jose Grading Ordinance, including erosion- and dust-control during site preparation and with the City of San Jose Zoning Ordinance requirement for keeping adjacent streets free of dirt and mud during construction. The following specific measures would be implemented to prevent storm water pollution and minimize potential sedimentation during construction:

- restricting grading to the dry season or meet City requirements for grading during the rainy season;
- use silt fencing to retain sediment on the Project site;
- providing temporary cover of disturbed surfaces to help control erosion during construction;
- provide permanent cover to stabilize the disturbed surfaces after construction has been completed.

The Project design would include features to minimize nonpoint source pollutants from entering the Coyote Creek channel. Such features will include placement of a temporary plastic fence and hay bales along the edge of the riparian corridor or Project boundary nearest the corridor during construction. Post construction runoff will be controlled by vegetated swales and inlet filters.

As part of the mitigation for post-construction runoff impacts addressed in the SWPPP, the Project will implement regular maintenance activities (including sweeping, cleaning storm water inlet filters, litter control) at the site to prevent soil, grease, and litter from accumulating on the Project site and contaminating surface

runoff. Storm water catch basins will be stenciled to discourage illegal dumping.

3. **Finding.** Requiring the project applicant to implement the mitigation measures identified on pages 34 and 35 of the FEIR is a feasible way to reduce impacts to aquatic habitat in Coyote Creek to a less than significant level and is hereby adopted.

II. TRANSPORTATION IMPACTS

A. Impacts to U. S. 101 (northbound)/Old Oakland Road

1. **Impact.** The Project would result in a significant impact to U. S. 101 (northbound)/Old Oakland Road by causing an increase in the average stopped delay at a regional intersection for the critical movements by four seconds or more and the critical V/C value to increase by 0.01 or more.

2. **Mitigation.** The mitigation necessary to reduce the significant impact is installation of a second westbound right turn lane as described on page 53 of the EIR."

3. **Finding.** With the addition of a second westbound right turn lane, the intersection would operate at LOS D, with a Critical average delay of 38.3 seconds and a critical V/C ratio of 0.949 during the AM peak hour. After mitigation, the project's impact would be reduced to a less-than-significant level. However, the U. S. 101 northbound ramp/Oakland Road intersection is under the jurisdiction of Caltrans. Because this is a Caltrans controlled intersection, this mitigation would have to be approved by Caltrans prior to implementation. Because the City of San Jose lacks jurisdiction to guarantee the implementation of this mitigation measure, the impact is considered to be significant and unavoidable. Such changes or alterations are within the responsibility and jurisdiction of Caltrans and not the City of San Jose. Such changes to the project should be adopted by Caltrans.

B. Transportation Impacts to Murphy Road and Oyama Drive

1. **Impact.** The Project would result in a significant impact to Murphy Road and Oyama Drive by causing a local City of San Jose intersection to deteriorate below LOS D.

2. **Mitigation.** The Project would move the double-yellow striping to the west to reduce the southbound departure lane to twelve feet in width, and add striping to the northbound approach lane to designate a left turn only lane and a shared through-right turn lane.

3. **Finding.** Requiring the project applicant to implement the mitigation measures identified on page 54 of the FEIR is a feasible way to reduce project transportation impacts to Murphy Road and Oyama Drive to a less than significant level and is hereby adopted.

C. Transportation Impacts to Freeway Segments

1. **Impact.** The Project would contribute traffic in excess of one percent of segment capacity to a freeway segment already operating at LOS F on I-880, between U. S. 101 and Brokaw Road (northbound AM and southbound PM)).

2. **Mitigation.** The mitigation necessary to reduce significant impacts upon this freeway segment is the widening of the freeway segment.

3. **Finding.** Requiring the project applicant to widen the freeway is infeasible due to the excessive cost of such widening. Such cost is not roughly proportional to the transportation impacts of a single development. No other feasible mitigation measures are available that the City could adopt to reduce this impact to freeway segments to a less than significant level. Therefore, this impact is significant and unavoidable.

III. AIR QUALITY IMPACTS

A. Air Quality Impacts from Construction

1. **Impact.** Air quality impacts resulting from construction, particularly generation of construction dust, could cause significant adverse effects. **(Significant Impact)**

2 **Mitigation.** The Bay Area Air Quality Management District (BAAQMD) has prepared a list of feasible construction dust control measures that can reduce construction impacts to a level that is less-than-significant. Construction practices required by the City of San Jose and listed on page 62 of the FEIR meet or exceed the BAAQMD feasible construction dust control measures and will be implemented during all phases of construction on the Project site.

- Water all active construction areas hourly during daylight hours.
- Covering of stockpiles of debris, soil, sand or other materials that can be blown by the wind.
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard.

- Pave, apply water hourly during daylight hours, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
- Sweep at least four times daily with water sweepers all paved access road, parking areas and staging areas at construction sites.
- Sweep streets daily at least twice during construction with water sweepers and within one hour of visible soil material carried onto adjacent public streets,
- Hydroseed or apply non-toxic soil stabilizers to inactive construction areas.
- Enclose, cover, or apply non-toxic soil binders to exposed stockpiles (dirt, sand, etc.).
- Limit traffic speeds on unpaved roads to 15 mph.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
- Replant vegetation in disturbed areas as quickly as possible.

3. **Finding.** Requiring the project applicant to implement the mitigation measures identified on page 62 of the FEIR are feasible and will reduce the air quality impacts from construction to a less than significant level.

IV. FLOODING, DRAINAGE, AND WATER QUALITY

A. Storm Water Quality Impacts to Coyote Creek

1. **Impact.** Development of the project site will increase the amount of contamination in storm water runoff, which could adversely affect the water quality of Coyote Creek. **(Significant Impact)**

2. **Mitigation.** The Project will comply with the NPDES General Construction Activity Storm Water Permit administered by the Regional Water Quality Control Board. Prior to grading for the proposed land uses, the applicant will file a "Notice of Intent" (NOI) to comply with the General Permit and prepare a Storm Water Pollution Prevention Plan (SWPPP) which addresses measures that would be included in the Project to minimize and control construction and post-construction runoff. The SWPPP will be submitted to the City of San Jose Department of Environmental Services. The following measures will be included in the SWPPP:

- Preclude non-storm water discharges to the storm water system.
- Perform monitoring of discharges to the storm water system.

The project applicant will submit a copy of the draft SWPPP to the City of San Jose Department of Environmental Services for review and approval prior to construction of the project.

The Project will comply with the City of San Jose Grading Ordinance, including erosion- and dust-control during site preparation and with the City of San Jose site development requirement for keeping adjacent streets free of dirt and mud during construction. The following specific measures would be implemented to prevent storm water pollution and to minimize potential sedimentation during construction.

- restricting grading to the dry season or meet City requirements for grading during the rainy season;
- use silt fencing to retain sediment on the Project site;
- provide temporary cover of all disturbed surfaces to help control erosion during construction.
- provide permanent cover to stabilize the disturbed surfaces after construction has been completed.

The Project design includes features to minimize nonpoint source pollutants from entering the Coyote Creek channel. Such features will include the installation of vegetated swales and inlet filters and the placement of a temporary plastic fence and hay bales along the edge of the riparian corridor or Project boundary nearest the corridor during construction.

As part of the mitigation for post-construction runoff impacts addressed in the SWPPP, the Project will implement regular maintenance activities (*i.e.*,-sweeping, cleaning storm water inlets, litter control) at the site to prevent soil, grease, and litter from accumulating on the Project site and contaminating surface runoff. Storm water catch basins will be stenciled to discourage illegal dumping.

3. **Finding.** Requiring the project applicant to implement the mitigation measures identified on page 73 and 74 of the FEIR are feasible to reduce significant impacts upon water quality to a less than significant level and are hereby adopted.

V. CUMULATIVE IMPACTS

A. Cumulative Loss of Burrowing Owl Habitat

1. **Impact.** Development of the Project site with other pending and approved projects in north San Jose will contribute to the cumulative loss of Burrowing Owl habitat. **(Significant Impact)**

2. **Mitigation.** Mitigation for loss of Burrowing Owl foraging habitat could consist of acquiring and/or protecting equivalent habitat areas. Within northern Santa Clara County, however, few sites remain that could be used to offset impacts to local populations of Burrowing Owls. In most cases, those sites are also planned for development.

Acquiring equivalent habitat areas away from the project's impact area (i.e., elsewhere in Central California), while not reducing effects to Burrowing Owls locally, could prevent similar habitat degradation elsewhere in the owls' range, especially in areas where human activities have not already degraded habitat quality or inflated land value. Mitigation by habitat acquisition and preservation elsewhere in the Greater Bay Area or Central California would not lessen impacts to Burrowing Owls in the Santa Clara Valley.

3. **Finding.** There are no feasible mitigation measures that the City could adopt to reduce this impact to a less than significant level in that burrowing owl habitat on the subject site is irreplaceable. Acquisition of Burrowing Owl foraging and breeding habitat land outside of the immediate region would not replace the loss of local habitat. Therefore, this impact remains a significant and unavoidable cumulative impact.

VI. ALTERNATIVES TO THE PROJECT

A. No Project Alternative.

1. **Description.** Under a "No Project" alternative, the Project site would remain vacant.

2. **Comparison to the Proposed Project.** This alternative would avoid the traffic impacts and the contribution to the cumulative loss of Burrowing Owl foraging and potential nesting habitat. This alternative does not meet any of the Project goals. The No Project alternative would also not provide the employment opportunities or economic benefits to the City resulting from the development of the site. The Project site has a General Plan designation for industrial development and is zoned for industrial development. Such uses will continue to be proposed on the site, even if the project is not approved.

3. **Finding.** The No Project Alternative is environmentally superior to the proposed Project since it avoids the transportation and biological resources impacts. However, the No Project Alternative would not have the positive benefits anticipated from the project, the creation of jobs for skilled workers and the improvement of San Jose's jobs/housing imbalance. This alternative is compatible with the site's

zoning and General Plan designation and is, therefore, feasible from a planning and land use standpoint. This alternative would not meet the applicant's objectives of providing a high quality office/R&D development adjacent to the Interstate 880 corridor, would not result in the utilization of a vacant infill site and would not result in development consistent with the adopted General Plan.

B. Reduced Scale Alternative.

1. **Description.** A design alternative to the Project as presently proposed would be a smaller development, representing a less intense use of the site. A possible development scenario would be 132,500 square feet of office/R&D uses. This alternative represents a 50 percent reduction in office/R&D space.

2. **Comparison to the Proposed Project** The reduced scale alternative would reduce the size of the Project by approximately 50 percent. This change in the project's size would reduce traffic generation and Project transportation impacts. Compared to the proposed project, the reduced scale alternative would reduce the significant, unavoidable traffic impacts to the I-880, US 101 to Brokaw Road freeway segment to a less than significant level. Impacts to the Murphy Road/Oyama Drive intersection would also be reduced to a less than significant level. These impacts can also be reduced to a less than significant level with mitigation under the Project case. While incrementally reduced, impacts to the U.S. 101 northbound ramp/Old Oakland Road intersection would not be reduced to a less than significant level. As with the Project case this impact can be reduced to a less than significant level with mitigation. The intersection is under Caltrans jurisdiction and the mitigation can only be implemented with Caltrans' approval.

   The amount of open space within the Project boundaries could increase under this alternative. To the extent that this alternative could cluster development, impacts to burrowing owl foraging habitat could be incrementally reduced. The quality of remaining habitat would be reduced, however, as a result of its size (less than eight acres), the introduction of additional trees and a new structure on the site. The remaining open areas on the site would not provide high quality habitat for Burrowing Owl foraging or nesting. While the reduced scale alternative would incrementally reduce impacts to Burrowing Owl foraging habitat, cumulative impacts would remain significant.

3. **Finding.** This alternative involves the same site, is compatible with the site's zoning and General Plan designation and is, therefore, feasible from a planning and land use standpoint. This alternative is slightly environmentally superior to the Project as proposed since it

would avoid transportation impacts to the I-880 freeway segment. Significant impacts to Burrowing Owl foraging habitat would be incrementally reduced, but not avoided. The remaining habitat would not provide high quality foraging or nesting habitat. The reduced size of this alternative may cause it to be economically infeasible, which would not conform to the Project objective of developing an economically viable corporate campus. Development of this site is uniquely suited as a "high quality corporate location" due to its visibility from and proximity to Interstate 880. [Note: the following detail about the number of business groups and accommodation of the needs of a growing company are not in the objectives section--although the City may want to include to provide additional detail]A reduction in the amount of office space would constrain the ability of a corporate user to place 2-3 business groups at the location and achieve the necessary synergy to justify use of the site. Reduced development on the site will fail to create a site large enough to accommodate the needs of a growing company.

C. Alternative Location.

1. **Description.** Sites within the Edenvale Redevelopment Area located in south San Jose have been identified as an alternative location for the project. The vacant land in New Edenvale is designated on the General Plan and zoned for industrial park and office uses.

2. **Comparison to the Proposed Project.** Development of approximately 265,000 square feet of office/R&D buildings at a location in Edenvale would result in traffic generation that is generally similar to developing the Project in North San Jose. New Edenvale is in closer proximity to existing and planned concentrations of housing than the proposed Project site. The commute pattern anticipated for the Edenvale Redevelopment Area does not reinforce the prevailing Countywide pattern of driving to the north County in the morning and south in the evening. As discussed in the Edenvale Redevelopment Plan and the City's General Plan, industrial development in Edenvale helps to create a "reverse commute", using underutilized transportation capacity and generating significantly less congestion and air pollution than a similar amount of traffic moving in the opposite direction. Visitors to the site from employment centers in the northern portion of Santa Clara County would have to travel further to the site, however. In addition to not adding to the primary commute direction, New Edenvale is not subject to a significant through-movement of regional traffic on local streets, as is the North San Jose/Santa Clara/Milpitas area. Regional traffic in this area is generally confined to U.S. 101 and Monterey Highway.

The Edenvale Redevelopment Project Final EIR, certified in June 2000, addressed transportation impacts associated with the buildout of

4.8 million square feet of industrial uses on the remaining vacant land in the Edenvale Redevelopment Area. Buildout of the entire 4.8 million square feet of development would result in impacts to two local intersections along Blossom Hill Road and one freeway segment during the PM peak hour. In June 2000, the City of San Jose City Council adopted an Area Development Policy that deferred the implementation of mitigation measures for the two local intersections until specified development triggers are met. Buildout of the entire 4.8 million square feet of development would result in significant unmitigated impacts to two intersections. Development of the 265,000-square foot Project at this alternative location would be anticipated to contribute to this cumulative impact. However, generally, the regional transportation system in the south part of the County is not as congested as the facilities in the proposed Project area. Therefore, transportation impacts from a similar Project in Edenvale would be somewhat less than at the proposed North San Jose location.

To the extent that this alternative site is not located in an area with known burrowing owl populations, impacts to burrowing owl foraging habitat would be reduced.

Development on a different site could have other significant impacts, different than those on the proposed site. The *Edenvale Redevelopment Project Final EIR* (2000), identifies potentially significant impacts from anticipated development upon riparian habitat for sites located adjacent to Coyote Creek and special status species found on areas with serpentine soils. Other biological impacts are found only on particular sites in the area, and could also be mitigated to a less than significant level. Development of the proposed Project at this alternative location could, however, contribute incrementally to these potentially significant impacts.

3. **Finding.** This alternative is somewhat environmentally superior to the Project as proposed with respect to transportation impacts and impacts to Burrowing Owl habitat. Impacts to prime farmland would increase under this alternative. Impacts to riparian habitat and special status species could be greater under this alternative. This alternative site would not be compatible with the project objective of developing a high quality office/R&D development adjacent to the Interstate 880 corridor in close proximity to the North San Jose High Technology and Industrial sector and converting an under-utilized urban infill site to a viable economic use.

VII. STATEMENT OF OVERRIDING CONSIDERATIONS

The Director of Planning, Building & Code Enforcement has considered the FEIR, the public record of proceedings on the proposed Project and other written materials presented to the City as well as oral and written testimony at all public hearings related to the Project, and hereby finds that, for the reasons set forth below, the economic, social, and other considerations of the project outweigh the significant unavoidable impacts of traffic to one signalized intersection and one freeway segment, and a cumulative impact to loss of burrowing owl habitat.

First, implementation of this project will implement previous legislative approvals of the City for this site, including a General Plan amendment to Industrial Park with a Mixed Use Overlay and a rezoning to Industrial District. Second, the project will develop an economically viable corporate campus with high-quality architecture and urban design along the Interstate 880 corridor in close proximity to the North San Jose High Technology and Industrial sector, allowing for the benefits that can accrue from this proximity. Third, the project also will be located on an underutilized, urban infill site resulting in the location of jobs in an urban area of the City, thereby improving the balance between jobs and housing. Fourth, the project will comply with the setback requirements of the Riparian Corridor Policy and provide locally native plantings in this setback area. The information to support these overriding factors is found in (1) the project record for Site Development Permit File No. H 00-08-063, (2) the San Jose 2020 General Plan, (3) the Riparian Corridor Study Policy, (4) General Plan Amendment File No. GP 99-04-004, and (5) Rezoning File No. C 00-05-029.

ADOPTED and issued this 16th day of May, 2001, by the Director of Planning, Building & Code Enforcement.

Susan Walton

James R. Derryberry, Director
Planning, Building & Code Enforcement

MITIGATION MONITORING AND REPORTING PROGRAM
CREEKSIDE PLAZA DEVELOPMENT

Impact	Mitigation or Method of Avoidance	Implementation Responsibility	Oversight Responsibility and Implementation Mechanism
Biological Resources			
The project could result in direct impacts to nesting raptors during construction.	Preconstruction surveys for nesting raptors will be conducted to ensure that no raptor nests will be disturbed during construction. Surveys will be conducted no more than 14 days prior to the initiation of construction activities during January through April and no more than 30 days prior to the initiation of construction activities during May through September. During preconstruction surveys, all trees in and immediately adjacent to construction areas will be inspected for raptor nests. If an active raptor nest is found, a construction-free buffer zone (typically 250 feet) will be established around the nest for the duration of breeding activity until young birds have fledged. In conformance with federal and state regulations regarding protection of raptors, appropriate preconstruction surveys for Burrowing Owls following California Department of Fish and Game protocols will be completed prior to any development to ensure that owls have not moved onto the site. Preconstruction surveys for Burrowing Owls will be conducted no more than 30 days prior to the start of each phase of site grading. If breeding owls are located on or immediately adjacent to the site, a	Project Proponent, Director of Planning, Building and Code Enforcement, and Director of Public Works	The project proponent will submit the results of preconstruction surveys for nesting raptors conducted by qualified biologists to the Director of Planning, Building, and Code Enforcement prior to approval of any tree removal permits. The Director of Public Works will ensure that preconstruction surveys for Burrowing Owls, nesting raptors are completed and construction-free buffer zones established (if needed) prior to issuance of a grading permit.

MITIGATION MONITORING AND REPORTING PROGRAM
CREEKSIDE PLAZA DEVELOPMENT

Impact	Mitigation or Method of Avoidance	Implementation Responsibility	Oversight Responsibility and Implementation Mechanism
Biological Resources (cont.)			
Continued from previous page	construction-free buffer zone (typically 250 feet) around the active burrow will be established for the duration of breeding by owls until young birds have fledged.	*Refer to previous page*	*Refer to previous page*
Biological Resources and Flooding, Drainage and Water Quality			
Development of the project site could increase the amount of toxic contaminants and sediment in storm water runoff, which could adversely effect aquatic habitat and water quality in Coyote Creek.	The project will comply with the NPDES General Construction Activity Storm Water Permit administered by the Regional Water Quality Control Board. Prior to construction grading for the proposed land uses, the applicant will file a "Notice of Intent" (NOI) to comply with the General Permit and prepare a Storm Water Pollution Prevention Plan (SWPPP) which addresses measures that would be included in the project to minimize and control construction and post-construction runoff. The SWPPP will be submitted to the City of San Jose Department of Environmental Services for review and approval prior to construction of the project. The project will comply with the City of San Jose Grading Ordinance, including erosion- and dust-control during site preparation (as identified in the EIR) and with the City of San Jose zoning ordinance requirement for keeping adjacent streets free of dirt and mud during construction.	Project proponent, Director of Public Works, Director of Environmental Services, Director of Planning, Building and Code Enforcement	The project proponent will prepare a SWPPP and include appropriate design features in development plans. Prior to issuance of a grading permit, the Director of the Department of Environmental Services and the Director of Public Works will review and approve the draft SWPPP. The Director of Public Works will ensure that the project complies with the City of San Jose Grading Ordinance and implements erosion control and dust control measures during construction. The Director of Planning, Building and Code Enforcement will ensure that the project includes appropriate design features to

MITIGATION MONITORING AND REPORTING PROGRAM CREEKSIDE PLAZA DEVELOPMENT			
Impact	**Mitigation or Method of Avoidance**	**Implementation Responsibility**	**Oversight Responsibility and Implementation Mechanism**
Biological Resources and Flooding, Drainage and Water Quality (cont.)			
Continued from previous page	The project design would include features to minimize nonpoint source pollutants from entering the Coyote Creek by-pass channel. Such features could include the placement of a temporary plastic fence and hay bales along the edge of the riparian corridor or project boundary nearest the corridor during construction. Post construction runoff will be controlled by vegetated swales and inlet filters.	*Refer to previous page*	minimize nonpoint source pollutants from entering the Coyote Creek.
Transportation Impacts			
The project would result in a significant impact to the Murphy Road and Oyama Drive intersection.	The double-yellow striping would be moved to the west to reduce the southbound departure lane to twelve feet in width and striping would be added to the northbound approach lane to designate a left turn only lane and a shared through-right turn lane.	Project Proponent and Director of Public Works	Prior to the issuance of a Public Works Clearance, the Director of Public Works will require the applicant to either construct or bond for the improvements, and will oversee construction of all street improvements.
Air Quality Impacts			
Air quality impacts resulting from construction, particularly generation of construction dust, could cause short-term significant adverse effects.	The project will implement construction dust control measures including watering all active construction areas at least twice daily; covering all trucks hauling soil, sweeping at least four times daily all paved access roads; and other measures included in the Bay Area Air Quality Management District (BAAQMD) list of feasible construction dust control	Project Proponent	The Director of Public Works will ensure that a dust control program is included in the application for a grading permit, and will oversee implementation of the program as part of the grading permit.

MITIGATION MONITORING AND REPORTING PROGRAM CREEKSIDE PLAZA DEVELOPMENT			
Impact	**Mitigation or Method of Avoidance**	**Implementation Responsibility**	**Oversight Responsibility and Implementation Mechanism**
Air Quality Impacts (cont.)			
Continued from previous page	measures and construction practices required by the City of San Jose that would be implemented during all phases of construction.	*Refer to previous page*	*Refer to previous page*
Cultural Resources			
While it is not anticipated that development of the project site will result in a significant impact to cultural resources, the project includes monitoring and protection measures to ensure that all subsurface resources are appropriately protected.	The project will implement construction monitoring by a professional archeologist in the southeast portion of APN 237-05-50 during subsurface excavation or construction. In the event significant prehistoric or historic archaeological resources are encountered, during construction monitoring or during other site grading or excavations, all construction within a radius of 50 feet of the find would be halted, the Director of Planning, Building and Code Enforcement would be notified, and the archaeologist will examine the find and make appropriate recommendations. In the event that human skeletal remains are encountered, appropriate action will be taken in accordance with County Ordinance No. B6-18 and subdivision (c) of section 7050.5 of the State Health and Safety Code. The Director of Planning, Building and Code Enforcement will also be notified.	Project Proponent and Director of Planning, Building and Code Enforcement	The Director of Planning, Building and Code Enforcement will include as a condition of approval in the Site Development Permit that archeological monitoring will occur for all excavation and grading of native soils in the southeast portion of the site and any resources will be dealt with as described in the EIR.

I. LIST OF AGENCIES AND INDIVIDUALS RECEIVING THE DRAFT EIR

Federal Agencies

U.S. Army Corps of Engineers
U.S. Fish and Wildlife Service

State Agencies

State Clearinghouse
Archaeological Information Center
California Department of Fish & Game
Department of Toxic Substances Control
California Water Resources Board
California Department of Transportation
Native American Heritage Commission

Regional and Local Agencies

Association of Bay Area Governments
Bay Area Air Quality Management District
Metropolitan Transportation Commission
Regional Water Quality Control Board
City of Milpitas
County of Santa Clara Planning Department
County of Santa Clara, Roads & Airports Department
Santa Clara Valley Transportation Agency

Special Districts

Santa Clara Valley Water District

Public Utilities

Pacific Gas & Electric
San Jose Water Company

Organizations and Individuals

Audubon Society
California Native Plant Society
Guadalupe-Coyote Resource Conservation District
Greenbelt Alliance
Open Space Authority
Sierra Club
Streams for Tomorrow

II. LIST OF AGENCIES AND INDIVIDUALS COMMENTING ON THE DRAFT EIR

Comment Received From	Date of Letter	Response Required
State Agencies		
A. Department of Transportation	February 5, 2001	yes
B. Department of Toxic Substances Control	January 31, 2001	yes
Regional and Local Agencies		
C. Santa Clara Valley Transportation Agency	February 5, 2001	yes
Public Utilities		
D. Pacific Gas & Electric Company	January 8, 2001	yes
Organizations and Individuals		
E. Audubon Society	February 5, 2001	yes
F. Son Cheong Kuan	January 27, 2001	yes

III. RESPONSES TO COMMENTS RECEIVED ON THE DRAFT EIR

The following section includes all of the comments requiring responses contained in letters received during the advertised 45-day review period by the City of San Jose regarding this DEIR. The comments are organized under headings containing the source of the letter and its date. The letters have been grouped into the following categories.

- State Agencies
- Regional and Local Agencies
- Public Utilities
- Organizations and Individuals

The specific comments have been copied from the letters and are presented as "Comment" with each response directly following. Copies of the actual letters received, and any attachments to those letters, are contained, in their entirety, in Section V of this document.

State Agencies

A. RESPONSES TO COMMENTS ON THE DRAFT EIR FROM THE CALIFORNIA DEPARTMENT OF TRANSPORTATION, DATED FEBRUARY 5, 2001.

COMMENT A-1: We would like to know the length of the storage lanes on both the existing and proposed right-turn lane on the northbound Interstate 880 (I-880) off-ramp. We want to make sure that the traffic queues do not extend to the mainline.

RESPONSE A-1: The length of the existing northbound I-880 off-ramp at Brokaw Road from the gore point to the Brokaw Road intersection is approximately 995 feet. The ramp consists of a single lane diverging from the freeway which then widens to three lanes (one right turn only lane and two left turn only lanes). The length of the right turn only lane and two left turn only lanes at the northern end of the ramp are approximately 450 feet each, providing 900 feet of storage for left turn movements and 450 feet of storage for right turn movements.

The TRAFFIX analysis contained in the Transportation Impact Analysis appendices includes the number of cars in line (a traffic queue) in each lane for each intersection studied under AM and PM peak conditions. Using the assumption that the length of the queue is equal to the number of vehicles in the queue times 25 feet per vehicle, the queue lengths for the right-turn lane under existing conditions, background conditions, with the addition of project traffic, and under cumulative conditions are as follows:

	Peak Period	Lane(s)	No. of Vehicles	Length of Queue (feet)
Existing Condition	AM	NB Right	20	500
	PM	NB Right	17	425
Background Condition	AM	NB Right	20	500
	PM	NB Right	20	500
Project Condition	AM	NB Right	22	550
	PM	NB Right	20	500
Cumulative Condition	AM	NB Right	22	550
	PM	NB Right	21	525

Vehicle queues shown above for existing, background, project, and cumulative conditions exceed the storage capacity of the right turn only lane by 50 to 100 feet, or two to four vehicles in one or both of the peak hour periods. The two left-turn lanes have adequate storage capacity under all conditions.

Under existing, background, project and cumulative conditions, the approximately 545 feet of single lane from the freeway to the three turn lanes can accommodate vehicles beyond those than can be stored in the 450 feet of the existing right turn lane and traffic queues would not extend into the freeway mainline.

As noted on page 22 of the DEIR, Caltrans and local agencies are considering possible physical improvements to the northbound I-880 Brokaw Road off-ramp. These improvements are currently being designed by Caltrans and the final length of storage lanes is not currently known by the City of San Jose or the project proponent.

B. RESPONSES TO COMMENTS ON THE DRAFT EIR FROM DEPARTMENT OF TOXIC SUBTANCES CONTROL, DATED JANUARY 31, 2001.

COMMENT B-1: Thank you for the opportunity to comment on the Draft Environmental Impact Report (Draft EIR) for the Creekside Plaza site Development Permit, located at northwest of Ridder Park Drive between Brokaw Road, Coyote Creek and Interstate 880 [SCH#2000102049]

As you may be aware, the California Department of Toxic Substances Control (DTSC) oversees the cleanup of sites where hazardous substances have been released pursuant to the California Health and Safety Code, Division 20, Chapter 6.8. As a resource agency, DTSC is submitting comments to ensure that the environmental documentation prepared for this project to address the California Environmental Quality Act (CEQA) adequately addresses any required remediation activities which may be required to address any hazardous substances release.

The proposed project is to construct two office/R&D buildings on a 17.4-acre parcel within the Rincon de Los Esteros Redevelopment area of San Jose. Section H of the Draft EIR states that the site is a vacant parcel that was previously used for agricultural purposes. We strongly recommend that sampling be conducted to determine whether residual pesticides are present at elevated concentrations. If so, this is an issue which will need to be addressed in the CEQA compliance document.

If hazardous substances have been released, they will need to be addressed as part of this project. For example, if the remediation activities include the need for soil excavation, the CEQA document should include: (1) an assessment of air impacts and health impacts associated with the excavation activities; (2) identification of any applicable local standards which may be exceeded by the excavation activities, including dust levels and noise; (3) transportation impacts from the removal or remedial activities; and (4) risk of upset should be there an accident at the Site.

DTSC recommends the following soil sampling actions at potential school sites previously used for agriculture and provided as an example for your agency.

Soil Sampling

When little is known about a site other than it was used for agriculture, it is assumed that the land was farmed in a uniform manner. Each field of the same crop is assumed to have been watered, fertilized, and treated with pesticides to the same degree across the field. Therefore contaminant levels are expected to be similar at any given location within the field. Most agricultural soil is considered to be in an aerobic state (exceptions include rice fields) and pesticides that are relatively stable under aerobic conditions are the targets for sampling. When near-surface conditions exist that establish anaerobic soil over an extended time, then anaerobically stable pesticides should be considered as targets.

- Sample in at least 8 locations with each location made up of a composite of five subsamples if allowed by the criteria for compositing discussed below.

The sampling pattern should be a triangular grid with the starting point randomly selected. Each location should be sampled at the surface (zero to six inches). For better coverage, the surface sample may be a composite of subsamples, not to exceed 10 subsamples. The subsamples should be individually and uniformly split prior to compositing. The split of each subsample should be retained in case analysis is warranted from the composite results. Compositing shall not be performed to

reduce the sampling frequency suggested above, but to provide a more representative picture of the soil. To this end, subsamples should be spaced over 10 feet apart.

Compositing should only be done when the reporting limit (quantifiable level) for the method does not exceed the U.S. EPA Region IX Preliminary Remedial Goals (PRG) of an analyte divided by the number of subsamples in the composite. When the result of a composite sample exceeds the PRG divided by the number of subsamples for an analyte, the subsamples must be analyzed individually for the analyte. Sites, greater than 10 acres in size that cannot composite due to this limitation, will need to increase the number of locations sampled to compensate for the loss of coverage provided by the compositing but need not exceed 20 samples. [For example, a 30-acre site sampled at eight locations with five subsamples at each location will gather a total of 40 subsamples. If, due to detection limits, the number of subsamples composited is limited to four, then 32 subsamples would have been gathered. By taking an additional two locations, the number of subsamples will again return to 40.]

At specific locations, where it is likely that pesticide storage, preparation, or equipment rinsing took place, sampling should be performed at the surface (zero to six inches) and subsurface (-two'). Subsurface sampling may also be indicated when the terrain has been regraded or fill brought in. Low lying swales, ponded areas, or marsh where sediment runoff may have collected should be additionally sampled with subsurface samples analyzed for pesticides that are stable under anaerobic conditions when their use is suspected [i.e., ametryn, cyromazine, thiabendazole].

Analytical Methods

When the land is under active agricultural practices, the farmer/rancher must be interviewed to determine the types and amounts of pesticides recently used. The County Agricultural Commission should be consulted to determine if any restricted pesticides were used on the property in the last three years. Analysis should be performed for the most persistent pesticides used. In addition, analysis for organochlorine pesticides and heavy metals should be performed.

- Each sample should be analyzed for organochlorine pesticides (method 8081 A), triazine herbicides (8141A with NPD), organophosphorus pesticides (8141A), and chlorinated herbicides (8151A). In addition, a metal scan (6010B or 6020) should be performed and, when crops may have been planted with treated seed, an analysis for mercury (7471A) run.

The above analyses will detect most of the longest lived, most toxic, or most used pesticides & herbicides, Many fertilizers contain heavy metals as do some fungicides. Mercury compounds have been used to treat seed to improve germination by limiting fungal attack. Additional scans should be employed where knowledge of the site indicates other contaminants may be present.

Quality Control

- Quality control procedures specified in U.S. EPA SW-846 guidance must be followed.

Reporting

The logic the consultants used in selecting the samples needs to be explained. As more knowledge is available about a site, the sampling effort can become more focused and efficient in providing the necessary Information. The quality of the data must be documented to give assurance that the data is valid and appropriate for the included use. This will avoid having to repeat the sampling and analysis, and will allow for review of the decisions made. The National Functional Guidelines are

used by EPA to evaluate CLP data and is a well recognized protocol. Data may be qualified using alternative procedures as long as the protocol is described or referenced.

- The report should provide the rationale for selecting the locations, depths, and analytical methods.

- The laboratory data package must include a summary of the quality control sample results: blanks, matrix spike/matrix spike duplicate, surrogate recoveries, laboratory control samples, etc. as specified by the method. The laboratory should provide a narrative stating whether the quality control was met and listing any discrepancies. The data must be qualified In accordance with the National Functional Guidelines (EPA-64OR-94-012 and -013).

Data Interpretation

- Analysis should be initially compared to PRGS, and lead results to Lead Spread. It may be appropriate to compare metal results that exceed PRGs with background levels (use local background levels as a first comparison). This may result in the need to take background samples. Because agricultural activities cover large areas of ground, background sampling locations must be carefully selected and evaluated. The Preliminary Endangerment Assessment Guidance Manual should be used for final evaluation of the site.

RESPONSE B-1: Sampling of the site for residual pesticides and heavy metals was conducted in February 2001 by *Kleinfelder*. The concentrations of chlorinated pesticides (DDT and DDD) and metals found in soils on the site were below U.S. Environmental Protection Agency Preliminary Remediation Goals (PRGs) for industrial uses, except for arsenic. Arsenic concentrations in soil samples ranged from 3.4 to 4.1 milligrams/kilogram (mg/kg), which is slightly above the arsenic PRG of 2.7 mg/kg. The concentrations of arsenic found on the site are consistent with background soil conditions in California and do not suggest an agricultural application or a release of arsenic on the project site. The soil sampling report by *Kleinfelder* concluded that the arsenic concentrations on the site, consistent with background concentrations in the region, are within a generally accepted range of health risks for future users of the site.

The text on pages 75-76 of the Draft EIR has been revised to include the soil sampling results described above (refer to pages 19-20 of this document). The soil sampling report, which includes the soil sampling protocol, a review of aerial photographs of the site, and sampling results, is provided in Appendix H (see **Section IV. Revisions to the Text of the Draft EIR** on page 20 of this document).

COMMENT B-2: In the near future, DTSC will be administering the $85 million Urban Cleanup Loan program, which provide low-interest loans to investigate and cleanup hazardous materials at properties where redevelopment is likely to have a beneficial impact to a community. The program is composed of two main components: low interest loans of up to $100,000 to conduct preliminary endangerment assessments of underutilized properties; and loans of up to $2.5 million for the cleanup or removal of hazardous materials also at underutilized urban properties. These loans are available to developers, businesses, schools, and local governments. A fact sheet regarding this program is attached for your information.

RESPONSE B-2: These comments regarding DTSC's Cleanup Programs and funding mechanisms have been provided to the project proponent.

C. RESPONSES TO COMMENTS ON THE DRAFT EIR FROM THE SANTA CLARA VALLEY TRANSPORTATION AUTHORITY, DATED FEBRUARY 5, 2001.

COMMENT C-1: Santa Clara Valley Transportation Authority (VTA) staff have reviewed the Draft Environmental Impact Report (DEIR) for construction of 265,000 square feet of office/research uses on a 17.4 gross acre site located on the southeast corner of I-880 and Brokaw Road. We have the following comments regarding possible impacts to planned improvements at the I-880/Brokaw Road interchange, Transportation Impact Analysis, and existing bus transit services.

I-880 Interchange Improvements

VTP 2020 is the 20-year transportation plan for Santa Clara County and was adopted by the VTA Board of Directors in December 2000. VTP 2020 includes a proposed project sponsored by the City of San Jose entitled "Brokaw Road/1-880 interchange improvements" with an estimated cost of $35 million of which a portion or all of the funding would likely be from State Transportation Improvement Program (STIP) funds under the control of VTA and programmed in the 2006 or later STIP process.

The DEIR indicates that the proposed Creekside Plaza development would apparently extend to the property line adjacent to I-880 and Brokaw Road, primarily with parking improvements. As the existing I-880/Brokaw Road Interchange has very constrained geometrics and right of way, it is unlikely the City's proposed future interchange would be accommodated without disruption to the development proposed in the DEIR. As the Congestion Management Agency, VTA is concerned the proposed Creekside Plaza development in the DEIR would result in additional right of way costs for the future interchange project beyond what is currently anticipated for potential STIP funding. The City should modify the development to minimize the future interchange costs, or be prepared to provide the additional funding necessitated if the interchange project is implemented and disrupts the development's improvements as proposed in the DEIR.

As was commented in the November 8, 2000 VTA response to the Notice of Preparation, coordination with the Transportation Division of the City of San Jose would assist in the minimizing the impacts to the proposed development and the City's proposed interchange project.

RESPONSE C-1: The Valley Transportation Agencies comments regarding minimizing future interchange costs are acknowledged. As described on page 24, a final design has not been adopted for possible improvements to the Brokaw Road offramps from I-880. In response to meetings between the City of San Jose Department of Public Works and Caltrans staff, the project proponent modified the parking lot layout to minimize the number of parking spaces that would be located within the anticipated, but not yet adopted, new right-of-way in the northwestern corner of the site. Landscaping, and possibly parking, would be removed to construct anticipated ramp improvements. The removal of parking spaces on the site conceivably could result in additional right-of-way costs.

Possible ramp improvements in the future could result in a significant land use impact (from that project) if landscaping had to be eliminated and/or improvements cause parking to fall below required minimums in the zoning

ordinance. Parking loss could be mitigated by relocating the parking to a parking structure, redesigning the parking layout to be more efficient, or obtaining approval of a Conditional Use Permit for off-site parking.

COMMENT C-2: Transportation Demand Management VTA recommends implementing a variety of Transportation Demand Management (TDM) actions in order to help reduce the number of newly generated auto trips for the office development. Such measures can include:

- Charging for parking
- Parking cash-out or other payments for taking alternate modes
- In-house carpool matching for employees
- Vanpool program
- Preferentially located carpool parking
- In-house shuttle connection to transit and to lunch/convenience services
- Co-sponsoring of transit connection shuttle or local shuttle
- Bicycle lockers, racks
- Showers, clothes lockers
- On-site or walk-accessible employee services (day-care, dry-cleaning, fitness, banking, convenience store)
- On-siteor walk-accessible restaurants
- Guaranteed ride home program
- Transit fare incentives. Eco-Pass; Commuter Checks

The DEIR indicates that the project proposes to include bicycle parking near employee entrances, showers for use by employees that commute by bicycle, and a High Occupancy Vehicle (HOV) Parking Preference Program. VTA strongly recommends bicycle parking include bicycle racks for short-term visitor parking and bicycle lockers for long-term employee use. VTA's *Bicycle Technical Guidelines* offer guidance on estimating supply, siting, and design for bicycle parking. For a copy of the guidelines, please contact Sylvia Star-Lack at (408) 321-5725.

RESPONSE C-2: The project has been modified to include bicycle lockers in addition to bicycle racks near project entrances (see **Section IV. Revisions to the Text of the DEIR** on page 18 of this document).

COMMENT C-3: Pedestrian Facilities

The DEIR indicated that the project will include pedestrian facilities on the north side of Ridder Park Drive. Pedestrian-scale lighting should also be included in the site plans in order to provide safe and convenient access to nearby bus stops.

RESPONSE C-3: Pedestrian scale-lighting and sidewalks will be provided as part of the project.

D. RESPONSES TO COMMENTS ON THE DRAFT EIR FROM THE PACIFIC GAS AND ELECTRIC COMPANY, DATED JANUARY 8, 2001.

COMMENT D-1: PG&E owns and operates gas and electric facilities which are located within and adjacent to the proposed project. To promote the safe and reliable maintenance and operation of utility facilities, the California Public Utilities Commission (CPUC) has mandated specific clearance requirements between utility facilities and surrounding objects or construction activities. To ensure compliance with these standards, project proponents should coordinate with PG&E early in the development of their project plans. Any proposed development plans should provide for unrestricted utility access and prevent easement encroachments that might impair the safe and reliable maintenance and operation of PG&E's facilities.

Developers will be responsible for the costs associated with the relocation of existing PG&E facilities to accommodate their proposed development. Because facilities relocation's require long lead times and are not always feasible, developers should be encouraged to consult with PG&E as early in their planning stages as possible.

RESPONSE D-1: Pacific Gas and Electric Company's comments regarding relocation of existing PG&E facilities have been provided to the project proponent.

COMMENT D-2: We would also like to note that continued development consistent with Plans will have a cumulative impact on PG&E's gas and electric systems and may require on-site and off-site additions and improvements to the facilities which supply these services. Because utility facilities are operated as an integrated system, the presence of an existing gas or electric transmission or distribution facility does not necessarily mean the facility has capacity to connect to new loads.

RESPONSE D-2: Pacific Gas and Electric Company's San Jose office was contacted by the project proponent on September 8, 2000 regarding the availability of electric services for the site. In a memo dated September 9, 2000, Pacific Gas and Electric Company staff indicated that they did not see a problem providing services to the project site.

The current energy supply problems in the State of California as well as transmission deficiencies in the South Bay area are acknowledged. Pacific Gas and Electric has proposed transmission line improvements under the *Northeast San Jose Transmission Reinforcement Project* which would improve the electric transmission system from Alameda County to North San Jose. Based upon preliminary consultation with the local office of Pacific Gas and Electric, the existence of other system deficiencies have not been identified that would require the construction of substantial additional utility facilities to serve this individual project.

COMMENT D-3: PG&E operates and maintains a pole line within the subject boundary lines with an overhead capacitor. A new route with respective easements may be required if these facilities will have to be relocated or converted to underground. It is recommended that the developer include in the EIR the aspect of relocation - including the need for a planning permit if the capacitor has to be relocated to a pad mount location.

RESPONSE D-3: The project proponent is in contact with PG&E regarding the pole line on the project site. At this time it has not been determined whether the pole line will remain within the parking area or be placed underground. It is anticipated that any modifications to this pole line would occur within the project site, roadway right-of-ways or within existing easements. No new significant impacts are anticipated to result from relocation of the pole and capacitor.

COMMENT D-4: Expansion of distribution and transmission lines and related facilities is a necessary consequence of growth and development. In addition to adding new distribution feeders, the range of electric system improvements needed to accommodate growth may include upgrading existing substations and transmission line equipment, expanding existing substations to their ultimate buildout capacity, and building new substations and interconnecting transmission lines. Comparable upgrades or additions needed to accommodate additional load on the gas system could include facilities such as regulator stations, odorizer stations, valve lots, distribution and transmission lines.

RESPONSE D-4: The network of transmission lines and substations that carry electricity for distribution to customers is planned for and regulated by the California Public Utilities Commission, the California Independent Service Operator and to a less extent, the California Energy Commission. Transmission facility owners, such as PG&E, file annual transmission expansion plans to accommodate the state's growing electricity needs with the California Independent Service Operator. The California Public Utilities Commission is the Lead Agency which evaluates new major utility facilities, for both electricity and natural gas. While it is appropriate to address any new infrastructure needed for this specific project, system-wide or regional improvements are beyond the scope of this EIR.

COMMENT D-5: We would like to recommend that environmental documents for proposed development projects include adequate evaluation of cumulative impacts to utility systems, the utility facilities needed to serve those developments and any potential environmental issues associated with extending utility service to the proposed project. This will assure the project's compliance with CEQA and reduce potential delays to the project schedule.

RESPONSE D-5: Cumulative impacts are addressed on page 93-101 of the DEIR. The CEQA Guidelines (§15130) state that an EIR should discuss cumulative impacts "when the project's incremental effect is cumulatively considerable". Based upon information available at the date of the circulation of the DEIR, the cumulative analysis addressed the impacts of the project along with the U.S. DataPort project and the Rivermark-Agnews West project.

Of the three projects considered in the cumulative analysis, the U.S. DataPort project would be the largest user of energy. As described in the U.S. DataPort DEIR (November 2000), buildout of the project would not occur until transmission system improvements proposed in the *Northeast San Jose Transmission Reinforcement Project* are in place. This project, at the time of circulation of the DEIR, was not found to result in significant impacts to electric utility infrastructure.

It is recognized that in the last five years, electric demand in the South Bay, as well as the rest of the State of California, has been on the rise. At the same time, the private utility companies that serve the area have been undergoing a deregulation process that has radically altered how electricity is produced and

distributed in the state. Pacific Gas and Electric remains responsible for the electric distribution system (i.e., high transmission lines and substations), but has much less control of electric power production and supply. Pacific Gas and Electric, as one of several investor owned utilities under the State's deregulation program, is responsible for filing annual transmission expansion plans with the California Independent System Operator (ISO) to accommodate the state's growing electricity needs.

The proposed project, development of 265,000 square feet of office uses, would incrementally increase energy demand in San Jose. The CEQA Guidelines state that an EIR may determine that a project's contribution to a significant cumulative impact is de minimus and thus is not significant [§15130(4)]. Compared with electric demand increases from existing development, approved development and pending development in the Bay Area, the incremental increase from this project would represent a "de minimus" contribution to electric demand and transmission infrastructure. No new generation facilities would need to be built to serve this project.

As noted in the previous response, based upon consultation with PG&E's local office, it is not anticipated that this project would create the need for additional substantial utility infrastructure in the project vicinity. Based upon the proposed uses and consultation with PG&E, the contributions of the project to the need for major new utility infrastructure is not considered cumulatively considerable.

COMMENT D-6: We also encourage the City of San Jose to include information about the issue of electric and magnetic fields (EMF) in the Notice of Preparation. It is PG&E's policy to share information and educate people about the issue of EMF.

> "Electric and Magnetic Fields (EMF) exist wherever there is electricity-in appliances, homes, schools and offices, and in power lines. There is no scientific consensus on the actual health effects of EMF exposure, but it is an issue public concern. If you have questions about EMF, please call your local PG&E office. A package of information which includes materials from the California Department of Health Services and other groups will be sent to you upon your request".

RESPONSE D-6: This information is acknowledged and entered into the environmental record.

COMMENT D-7: PG&E remains committed to working with the City of San Jose to provide timely, reliable and cost effective gas and electric service to the planned area. We would also appreciate being copied on future correspondence regarding this subject as this project develops.

The California Constitution vests in the California Public Utilities Commission (CPUC) exclusive power and Sole authority with respect to the regulation of privately owned or investor owned public utilities such as PG&E. This exclusive power extends to all aspects of the location, design, construction, maintenance and operation of public utility facilities. Nevertheless, the CPUC has provisions for regulated utilities to work closely with local governments and give due consideration to their consideration to their concerns. PG&E, must balance our commitment to provide due consideration to local concerns with our obligation to provide the public with a safe, reliable, cost-effective energy supply in compliance with the rules and tariffs of the CPUC.

RESPONSE D-7: These comments are acknowledged. As they do not identify any new impacts, no further response is required.

E. RESPONSES TO COMMENTS ON THE DRAFT EIR FROM THE AUDUBON SOCIETY, DATED FEBRUARY 5, 2001.

COMMENT E-1: Thank you for the opportunity to comment on the Draft Environmental Impact Report (EIR) for Creekside Plaza Site Development Permit (Project). Due to this area's relatively undeveloped state and the project's proximity to the high quality riparian habitat associated with Coyote Creek, the land on which this project is proposed to be built is environmentally sensitive. The applicant and the City of San Jose (City) must take greater consideration of this sensitivity and adjust the EIR so that it truly reflects the environmental impacts of this project.

Riparian corridor

- We applaud the applicant's commitment to uphold the guideline found in the Riparian Corridor Policy Study, including not only the 100' setback, but also other specifications relating to lighting and design orientation. However, according to the Biological Assessment in Appendix A, this project will result in "0.13 acres of indirect impacts occurring within the 100-foot setback." At a minimum, the EIR should acknowledge this impact within the text. Because the biological assessment found the riparian habitat to be of high quality, the EIR should also discuss specific measures to mitigate for these impacts.

Page 30 of the EIR states, "To offset the impacts of the path associated with human activity, the project proposes to plant native trees…" This path accounts for 0.12 acres of the above mentioned indirect impacts. If this statement is meant as a mitigation measure, it should be clearly stated as such, ensuring that the planting area is greater than or equal to 0.13 acres. In addition, the EIR should include a monitoring plan with measurable success criteria to ensure the health and productivity of the newly planted trees.

RESPONSE E-1: As described on page 30 of the DEIR, an unpaved path would be located in the riparian setback area, but no paved surfaces or activity areas will be developed within 100 feet of the riparian corridor. The installation of the path would not result in direct impacts to riparian habitat and no mitigation is required.

The actual area occupied by the path (approximately 0.1 acres) is not so much the source of an impact as the fact that human use of the path will introduce some human activity in the vicinity of the riparian corridor of the creek. As the statement quoted indicates, the proposed planting will offset the effects of the activity. The planting is not called out as mitigation because it, like the pathway, is part of the proposed project.

The project will be required to maintain the proposed plantings of native trees and shrubs, as is required of all installed landscaping. Since the proposed plantings are not mitigation for trees or habitat removed, a mitigation and monitoring program is not required.

COMMENT E-2: Fisheries Impacts

According to the NOP comment letter submitted by the Santa Clara Valley Water District, Coyote Creek provides passage for both steelhead trout and Chinook salmon. While the EIR discusses potential impacts to federally threatened steelhead, it does not address the potential presence of, or impacts to, Chinook salmon. Because of the salmon's status as a sensitive species, the EIR should also acknowledge the potential impact to this species and include any necessary mitigation measures.

RESPONSE E-2: Fall-run Chinook salmon (*Oncorhynchus tshawytscha*) have been reported to migrate from the ocean to spawning sites in Coyote Creek. Text has been added to the DEIR to address the potential presence of Chinook salmon along the reach of Coyote Creek adjacent to the project site. Like the steelhead trout, potential impacts to this species could occur in the event the aquatic habitat in Coyote Creek was adversely affected by toxic contaminants and sediment in storm water runoff. As identified on pages 34-35 of the DEIR, the project includes measures that would reduce potential impacts to aquatic habitat to a less than significant level.

COMMENT E-3: The EIR identifies sediment and other contaminants as potentially harmful substances when discharged into a creek. These substances are particularly threatening to the juvenile steelheads that are likely to inhabit Coyote Creek throughout the year. The EIR proposed to avoid the degradation of this sensitive aquatic habitat by complying with the NPDES General Construction Activity Storm Water Permit. Although this permit requires the preparation of a Storm Water Pollution Prevention Plan (SWPPP), this does not adequately mitigate the potentially significant impacts on aquatic habitat to a less than significant level. Recent research by SCVAS shows that a significant number of new development projects are out of compliance with their SWPPP's and that the City shows little success at adequately enforcing these permits. This fact is confirmed by the Regional Water Quality Control Board in their Notice of Violation dated December 2000 noting at least six sites currently in violation. The City even failed to respond adequately to the Notice by neglecting to complete all of the inspection required therein. Therefore, this mitigation has proven unsuccessful and cannot be relied upon in the manner this EIR attempts. A sufficient mitigation measure would instead spell out the measures to be taken on the site to reduce water quality impacts, provide measurable success criteria for those measures, and ensure an adequate level of enforcement (e.g. the site's erosion and sediment control measures will be inspected at least X times per week).

RESPONSE E-3: The Santa Clara Valley Audubon Society's concerns regarding compliance with measures required in Storm Water Pollution Prevention Plans for individual sites are acknowledged. Regional Water Quality Control Board regulations for construction sites, including preparation and conformance with SWPPPs, along with erosion and sediment control measures required under the City's Grading Ordinance provide a mechanism for requiring the implementation of Best Management Practices and prevention of storm water pollution.

This environmental document assumes that developers and contractors will comply with laws and regulations. A recent memorandum to the City Council prepared by the City of San Jose Department of Public Works regarding compliance with the City's National Pollutant Discharge Elimination System (NPDES) concluded that the City has dedicated significant resources to the protection of water quality within Santa Clara County (Memorandum on the NPDES Permit Violations to the San Jose City Council, dated February 28, 2001). Although the Regional Water Quality Control Board formally noticed the City of San Jose of a violation of its NPDES permit at six construction sites within San Jose, these violations have since been resolved.

COMMENT E-4: Burrowing Owl Habitat
The EIR identifies the cumulative loss of Burrowing Owl habitat associated with the development of this 17-acre site as a significant unavoidable impact. Although the local impact will not be lessened,

the applicant should mitigate this loss by acquiring and preserving 17 acres of land elsewhere in the region. The EIR discusses this possible mitigation plan, but fails to propose any such measures. Because a feasible mitigation measure exists, the EIR should require the applicant to address this impact.

RESPONSE E-4: As described on page 96 of the DEIR, habitat acquisition elsewhere in the Greater Bay Area or Central California would not lessen impacts to Burrowing Owl populations in the Santa Clara Valley. The text has been revised to clarify that habitat acquisition elsewhere would not constitute mitigation for impacts to local Burrowing Owl populations, which is the identified impact (refer to **Section IV. Revisions to the Text of the DEIR** on page 20 of this document).

F. RESPONSES TO COMMENTS ON THE DRAFT EIR FROM SON CHEONG KUAN, DATED JANUARY 27, 2001.

COMMENT F-1: I would like to express my strong opinion in opposing the proposed development located at the northwest side of Ridder Park Drive between Brokaw Road, Coyote Creek and Interstate 880 in Council District 4, City of San Jose.

I have serious concerns about the traffic impact from this development as we all know and we are all too familiar with our traffic problem. This development will no doubt add significant traffic to the already congested industrial cluster.

With the passage of Measure A in the Election 2000, we, the voters, had expressed our strong opinions how disgust we were toward the congested traffic.

With the passage of Measure B in the Election 2000, we, the voters, had expressed our strong opinions how important it was to restore the value of our creeks.

With the passage of Measure K in the Election 2000, we, the voters, had expressed our strong opinions how important it was to preserve open space and our green foothill.

Can we achieve these with the benefit of the job creation? Yes, we can achieve these with significant change toward this development project.

We may come to the point that we not only need to encourage the use of public transit, but also we need to discourage, and perhaps "prohibit" the use of "private automobiles" in some areas. Adding 1,000+ parking spaces certainly do not encourage people taking public transit, it induces driving. Furthermore, it delays the on-time performance of the buses due to the congestion. Not to mention, it decrease the quality of life as we all know, and are all too familiar with. It does not get better before it gets worse.

I suggest to scale down the size of parking lots significantly, and waive the requirement providing the required parking spaces vs. the number of square footage in this development project.

We should preserve as much open space as we can on both banks of our creek, restore and return the value of our Coyote Creek. Coyote Creek is a beautiful natural resource beside the green foothill we all treasure. This would be a great place for workers to relax, and get away the hustling, and stressful workplace if we plan properly, e.g. some mixed use development, and landscape the surrounding.

We should work with the VTA to expand bus routes and bus schedules.

We should start a plan to place light rail along Brokaw-Murphy-Hostetter forming a smaller loop for the "Golden Triangle", connecting Guadalupe Light Rail, Tasman Light Rail and Capital Light Rail, and a direct connection to the San Jose International Airport.

We do not need the outrageous number of parking spaces while we should work with and coordinate with VTA on the traffic relief.

I believe that traffic relief and open space preservation are high on the list of Councilman Reed. It will be a disservice to the voters if this project is approved as it is without significant change. Thank you for your time and kind consideration.

RESPONSE F-1: These comments convey the opinion of the commentor regarding the project, traffic congestion and open space preservation in the project vicinity. These comments are acknowledged and noted. They will be considered by the Director of Planning and Planning Commission if appealed during the hearings and discussions on the Site Development Permit. No future response or analysis is required here, as this comment does not raise any questions regarding the adequacy of the EIR.

IV. REVISIONS TO THE TEXT OF THE DRAFT EIR

page 26 Section II. B. Biological Resources; **insert** the following text after the second paragraph under the heading *Special-Status Animal Species:*

Fall-run chinook salmon (*Oncorhynchus tshawyscha*) is proposed for federally listing as an endangered species. Chinook salmon migrate upstream from the ocean and San Francisco Bay. Adults spawn in gravel beds in the upper reaches of streams, and juveniles migrate downstream to the ocean where they mature.

Historically, chinook salmon did not spawn in South San Francisco Bay. However, in recent years, small numbers of spring-run and fall-run chinook salmon have been found spawning in several South San Francisco Bay streams, including Coyote Creek. Although there is evidence that these fish are derived from hatchery stock released into streams that had native chinook runs, the National Marine Fisheries Service currently considers all chinook spawning in the South Bay area to belong to at least one of the Evolutionary Significant Units (ESUs) proposed for protection under the Federal Endangered Species Act.

In the vicinity of the project, segments of the Coyote Creek channel include gravel substrates suitable for spawning.

page 31 Section II. B. Biological Resources; **revise** the text at the top of the page starting with *Potential Impacts to Steelhead Rainbow Trout* as follows:

Potential Impacts to Steelhead Rainbow Trout and Chinook Salmon

The Steelhead rainbow trout and fall-run chinook salmon are ~~is~~ known to be present within Coyote Creek. Adult steelhead trout migrate in Coyote Creek from January through April, and smolts migrate downstream from March though May. Juvenile steelhead may remain in deep pools throughout the year. The reach of Coyote Creek in the vicinity of Oakland Road (southeast of the site) supports fair habitat for juvenile steelhead trout. The portion of Coyote Creek adjacent to the site is likely used by chinook salmon during upstream migration of adults and downstream migration of juveniles and gravelly areas of the channel could also be used for spawning.

Substantial inputs of toxic or otherwise harmful substances (including sediment) into Coyote Creek could result in significant impacts to steelhead and chinook salmon. Juveniles are particularly susceptible to the effects of these substances. The potential project impacts to water quality that could impact steelhead rainbow trout and chinook salmon are discussed under *Degradation of Aquatic Habitat*, below.

page 54 Section II. C. Transportation; **revise** the first bulleted item under *On-site Improvements* as follows:

- Design elements such as bicycle parking near employee entrances, including bicycle racks for short-term visitor parking and bicycle lockers for long-term employee use.

page 75 Section II. H. Hazards and Hazardous Materials; Section II. H (1). Hazards and Hazardous Materials; **revise** the first paragraph on the page as follows:

The following section is based on a Phase I Environmental Site Assessment prepared by *ATC Associates, Inc.* in December 1998 and subsequent soil sampling for agricultural pesticides completed by *Kleinfelder* in March 2001. A site inspection was conducted *by ATC Associates, Inc.*, and a regulatory agency database report was obtained and reviewed to determine whether contamination incidents have been reported on the site or within the site vicinity. A copy of ~~this~~ the Phase I Environmental Site Assessment is on file with the City of San Jose Department of Planning, Building and Code Enforcement. The soil sampling report completed by *Kleinfelder* is included as Appendix H in this EIR.

page 75 Section II. H (1). Hazards and Hazardous Materials Existing Setting; **revise** the text under the heading *Potential Sources of On-Site Contamination*, as follows:

Potential Sources of On-Site Contamination

The site consists of an approximately 17-acre vacant parcel. Utilities are not currently provided to the site and no evidence of stained soil, stressed vegetation or signs of dumping was observed. The site has not been in agricultural production within the last 20 years.[16]

Soil sampling for residual agricultural pesticides and heavy metals was conducted on February 22, 2001 by *Kleinfelder*. The concentrations of chlorinated pesticides (such as DDT), arsenic, and lead found in six composite soil samples on the site are summarized below.

TABLE 17A
Residual Pesticide and Metal Concentrations in Soils, in milligrams per kilogram (mg/kg)

Chemical	Sample No.					
	1	2	3	4	5	6
Chlorinated Pesticides						
4,4,-DDE	0.022	0.012	0.017	0.029	not detected	not detected
4,4-DDT	not detected	0.011	not detected	0.013	not detected	not detected
All others analyzed	not detected					
Metals						
Arsenic	4.1	3.6	3.4	3.5	3.9	not detected
Lead	27	43	22	27	15	18

Note: Composite sample locations are shown in Appendix H.

Concentrations found on the site were below U.S. Environmental Protection Agency Preliminary Remediation Goals (PRGs) for industrial uses, except for arsenic. Arsenic concentrations in soil samples ranged from 3.4 to 4.1 mg/kg, which is above the arsenic PRG of 2.7 mg/kg. The concentrations of arsenic found on the site are consistent with background soil conditions in California and do not suggest an agricultural application or a release of arsenic on the project site.

Concentrations of residual pesticides and metals found on the site were all below California hazardous waste criteria of 1 mg/kg for DDT plus DDD and DDE, 500 mg/kg for arsenic, and 1,000 mg/kg for lead.[1]

In addition, no evidence of past or present underground storage tanks were observed during the November 1998 site reconnaissance and no underground storage tanks are registered on the site.

pages 75-76 Section II. H (2). Hazards and Hazardous Materials Impacts; **revise** the text under the heading *Potential Sources of On-Site Impacts*, as follows:

~~There are no identified chemical contaminants of concern for the project site that could result in potential on-site hazardous materials impacts.~~ Based on soil sampling conducted on the site in 2001, concentrations of agricultural pesticides and heavy metals residues were below U.S. Environmental Protection Agency Preliminary Remediation Goals (PRGs) for industrial uses, except for arsenic. Arsenic concentrations found on the site are consistent with background concentrations in the region and are within a generally accepted range of health risks for future users of the site (Kleinfelder 2001). Development of the project site would not expose people to significant risks from on-site hazardous materials contamination from past agricultural activities.

Furthermore, based upon the conclusions in the Phase I Environmental Assessment for the site, none of the adjacent properties pose an environmental hazard to the site.

page 96 Section IV. Cumulative Impacts; **revise** the second paragraph under the heading *Mitigation for Cumulative Loss of Burrowing Owl Habitat* as follows:

Acquiring equivalent habitat areas away from the project's impact area (i.e., elsewhere in Central California), while not reducing effects to Burrowing Owls locally, could prevent similar habitat degradation elsewhere in the owls' range, especially in areas where human activities have not already degraded habitat quality or inflated land value. ~~Mitigation by h~~Habitat acquisition and preservation elsewhere in the Greater Bay Area or Central California would not lessen impacts to Burrowing Owls in the Santa Clara Valley. **(Significant Unavoidable Impact)**

page 104 VIII. References; **insert** after reference for California Department of Conservation:

California Department of Transportation and U.S. Department of Transportation Federal Highway Administration. 2000. *Interstate 880 Widening Project From First Street to Montague Expressway in Santa Clara County, California Initial Study/Environmental Assessment.* December 2000.

Appendix H Insert the *Aerial Photograph Review and Soil Sample Results for Creekside Plaza Site* report dated March 2, 2001 as Appendix H as shown on the following pages.

[1] The State of California Total Threshold Limit Concentration (TTLC) for lead and arsenic are the levels above which the soil would be considered hazardous waste under Title 22 of the California Code of Regulations.

Insert

APPENDIX H

SOIL SAMPLE RESULTS FOR RESIDUAL AGRICULTURAL PESTICIDES AND METALS

KLEINFELDER
An employee owned company

March 2, 2001
Project No. 44-000414/001

Eric Luhrs
Spieker Properties
2180 Sand Hill Road, Suite 200
Menlo Park, California 94025

SUBJECT: Aerial Photograph Review and Soil Sample Results for Creekside Plaza Site Ridder Park Drive, San Jose, California

Dear Mr. Luhrs:

This letter documents the completion of aerial photograph review and soil sampling activities performed by Kleinfelder, Inc. at the Creekside Plaza Site located on Ridder Park Drive in San Jose, California (Plate 1). The aerial photograph review and soil sampling were completed per Kleinfelder's February 19, 2001 Proposal to Sample and Chemically Analyze Soils at the Creekside Plaza Site.

The purpose of the aerial photograph review and soil sampling was to identify areas of the site that were historically used for agricultural purposes then sample those areas for the presence of pesticides and heavy metals.

Site Description

The proposed Creekside Plaza site (site) is approximately 17 acres in size, relatively level, and currently undeveloped. The site is bounded by Ridder Park Drive, Coyote Creek, Brokaw Road and Interstate 880 in San Jose, California. No improvements to the site were observed.

Summary of Environmental Work Completed to Date

In November of 1998, ATC Associates, Inc. (ATC) performed a Phase I Environmental Site Assessment (ESA) for the site. In November 1999, Kleinfelder was retained by Spieker Properties to prepare an update to the ATC Phase I ESA, which included reviewing the ATC ESA, aerial photographs, and agency databases and performing a site reconnaissance. No recognized environmental conditions were identified in the ATC ESA or the Kleinfelder updated ESA.

In January 2001, the Department of Toxic Substances Control (DTSC) reviewed the Draft Environmental Impact Report that was prepared for the site. DTSC informed the city of San Jose of the potential presence of pesticides given the site was used for agricultural purposes. To assess the presence of pesticides at the site, Spieker Properties retained Kleinfelder to conduct a review of historical aerial photographs to identify the areas of the site used for agricultural purposes and collect samples for pesticide and residual metals analyses.

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Results of Aerial Photograph Review

On February 20, 2001, Kleinfelder performed an aerial photograph review of the site at Pacific Aerial Surveys. Kleinfelder reviewed the following aerial photographs of the site: 1954, 1960, 1966, 1971, 1976, 1980, 1984, 1990, and 1994.

On the 1954 aerial photograph, approximately 4-acres located in the southeastern corner of site was observed to be used for feeding and holding cattle. The remainder of the site may have been used for growing hay or other crops that were not planted in rows. By 1960, the cattle feeding and holding area was no longer used and the agricultural area (again, no rows were observed) was reduced to the northeastern corner of the site. By 1966, the site was observed to be a vacant lot with no agricultural areas. The site has remained relatively unchanged since approximately 1966.

Soil Sample Methodologies

Based upon the aerial photograph review, Kleinfelder developed a soil sampling plan of 1 four-point composite per 2 acres (1 sample per half acre) of the area observed to have been used for agricultural purposes. This sampling frequency is consistent with DTSC guidance for school sites. The location of the sampling points is presented on Plate 1. The 4-acre area that comprised the cattle feeding area was not sampled due to the unlikely presence of pesticides in that area.

On February 22, 2001, Kleinfelder collected 24 shallow soil samples that were composited by the laboratory into six samples (SRP-1, SRP-2, SRP-3, SRP-4, SRP-5, and SRP-6). These 24 samples were collected by removing the top 6-inches of soil and hand driving a stainless steel tube into the soil. The samples were then sealed and labeled with a unique sample number. The sample numbers included the composite sample area number (e.g., SRP-1) and a letter designation for the grid (e.g., A). The samples were placed in an ice chest for preservation, logged on to a chain-of-custody, and delivered the same day to McCampbell Analytical in Pacheco.

In addition, two grab soil samples were collected by removing 2-feet of soil and driving stainless steel tubes into the ground. The samples were then sealed and labeled with a unique sample number. The sample numbers included the composite sample area number (e.g., SRP-1), a letter designation for the grid (e.g., A), followed by the letter L (i.e., SRP-3C-L). These samples were also placed into an ice chest, logged on to a chain-of-custody, and delivered to McCampbell Analytical in Pacheco.

Soil Sample Analytical Results

McCampbell Analytical composited the 24 shallow samples into six samples. The composite samples were analyzed for pesticides by United States Environmental Protection Agency (USEPA) method 8080 and for Title 22 (CAM 17) metals. The two grab soil samples were analyzed for lead by USEPA method 6010. The analytical results for both the composite samples and the grab samples are presented on Table 1. A copy of the analytical laboratory reports is included as an attachment.

The following is a summary of analytical results for the six composite soil samples and the two grab soil samples:

- 4,4-DDE was detected in concentrations ranging from <0.01 to 0.029 milligrams per kilograms (mg/kg). 4,4-DDT was detected in samples SRP-2 and SRP-4 in concentrations of 0.011 and 0.013 mg/kg, respectively. No other pesticides were detected above the laboratory reporting limit.

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- Antimony, beryllium, cadmium, molybdenum, selenium, silver, and thallium were not detected above the laboratory reporting limit.

- Arsenic, barium, chromium, cobalt, copper, lead, mercury, nickel, vanadium, and zinc were detected in one or more of the analyzed samples.

- Lead was detected in the two grab samples, SRP-3C-L and SRP-4C-L, in concentrations of 26 and 22 mg/kg respectively.

Discussion

To assess the concentrations of the detected chemicals and elements, USEPA Region 9 Industrial Preliminary Remediation Goals (PRGs) were included on Table 1. While the USEPA provides PRGs for both residential and industrial setting, industrial PRGs are listed on Table 1 because the proposed use for the site.

PRGs are risk-based concentrations that were developed by USEPA using generally accepted exposure pathways (ingestion, dermal contact, and inhalation), and calculation methods, models, and conservative assumptions for generalized land use types. The PRGs were developed using an approach of one-in-ten thousand (10^{-4}) to one-in-a-million (10^{-6}) as an acceptable risk for cancer or other detrimental affects due to exposure to the chemicals and elements.

PRGs are used as a screening tool to evaluate if it is appropriate to conduct additional investigation or remediation activities at a site. If a constituent exceeds a PRG, an evaluation is recommended to assess if the PRG is appropriate for the site (i.e., was the model used correct for the site). This is especially true for naturally occurring constituents, such as heavy metals. Often background concentrations of metals exceed PRGs. In this case, USEPA guidance documents (USEPA website, 2001) recommends using the less conservative numbers of 10^{-4} or multiplying the PRG value for that constituent by 10.

For the site, both the pesticide analytical results and the Title 22 metals analytical results, except arsenic, are below the industrial PRGs. Arsenic was detected in concentrations slightly above the analytical reporting limit and at concentrations consistent with anticipated background arsenic concentrations for soils in that region. According to USEPA guidance documents (USEPA website, 2001), arsenic concentrations in soils in California average 3.54 mg/kg which is also above the conservative 10^{-6} PRG (2.7 mg/kg). A table, published by USEPA, showing a few background metals concentrations for California is attached. Given the arsenic concentrations are what is expected in native soils for that region but nonetheless greater than the conservative industrial PRGs, the less conservative 10^{-4} PRG of 27 is applicable. The arsenic concentrations were on an order of magnitude lower than the 10^{-4} PRG.

Summary and Conclusions

Kleinfelder conducted a review of historical aerial photographs for the site. Based upon information observed on the aerial photographs, a soil-sampling scheme was developed to collect one sample per half acre over the majority of the site which is consistent with DTSC recommended sample frequencies. A 4-acre portion of the site was eliminated from the sampling scheme because it was not used for agricultural purposes.

On February 22, 2001 Kleinfelder collected 24 shallow soil samples (that were composited by the laboratory into six samples) and two additional grab samples. The results of the samples were compared to industrial PRGs. The pesticides and heavy metals reported by the laboratory were below USEPA Region 9 PRGs except for arsenic. Arsenic concentrations were reported slightly above detection limits and industrial PRGs. The concentrations of arsenic are consistent with background soil conditions in California and do not suggest an application or a release on the site. Following USEPA guidance for a situation where naturally occurring background

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concentrations may exceed a PRG, Kleinfelder concluded that the risks associated with the arsenic are within the generally accepted range of 10^{-4} to 10^{-6}. It is Kleinfelder's opinion that no additional sampling is required for this site.

Limitations

This report was prepared in general accordance with accepted standards of care that exist in Northern California at the time the work was completed. It should be recognized that the definition and evaluation of subsurface conditions is a difficult and inexact science. The scope of services described here is not intended to be inclusive, to identify all potential concerns, or to eliminate the possibility of environmental problems. With current technology, no level of assessment can show conclusively that a property or its structures are completely free of contaminated and/or hazardous substances. Therefore, Kleinfelder cannot offer a certification that the recommendations made in this report will clear any property of environmental liability.

The data points used during this investigation are necessarily limited due to economic and site constraints and should be viewed as generally, but not explicitly, representative of contamination likely to be associated with a site. Thus, Kleinfelder assumes no responsibility for the representation of the data as exact surface and/or subsurface conditions, but only for conditions at the sampling points. There is always the possibility that other contaminated areas exist in the materials and that they were simply not encountered during the limited soil sampling program.

Kleinfelder appreciates the opportunity to provide environmental services to Spieker Properties. Please do not hesitate to call if you have any questions.

Sincerely,

KLEINFELDER, INC.

Gary Goodemote, R.E.A.
Environmental Scientist

Charles Almestad, R.G., C.H.G
Senior Client Manager

Attachment:

Table 1 – Summary of Analytical Data
Plate 1 – Site Vicinity Map
Plate 2 – Site Plan
Analytical Laboratory Reports
Background Concentrations of Selected Elements in Soil

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PLATES

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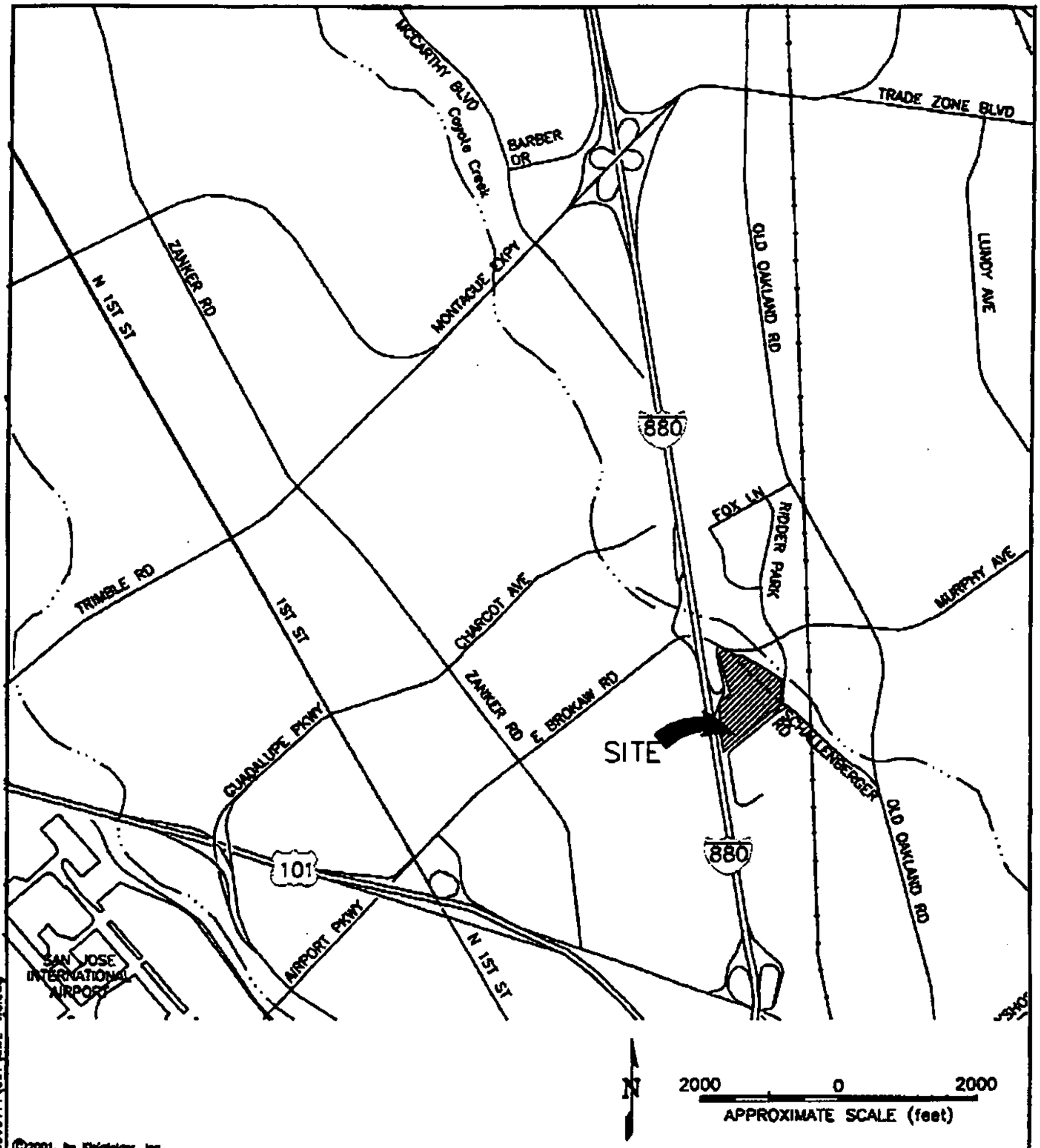


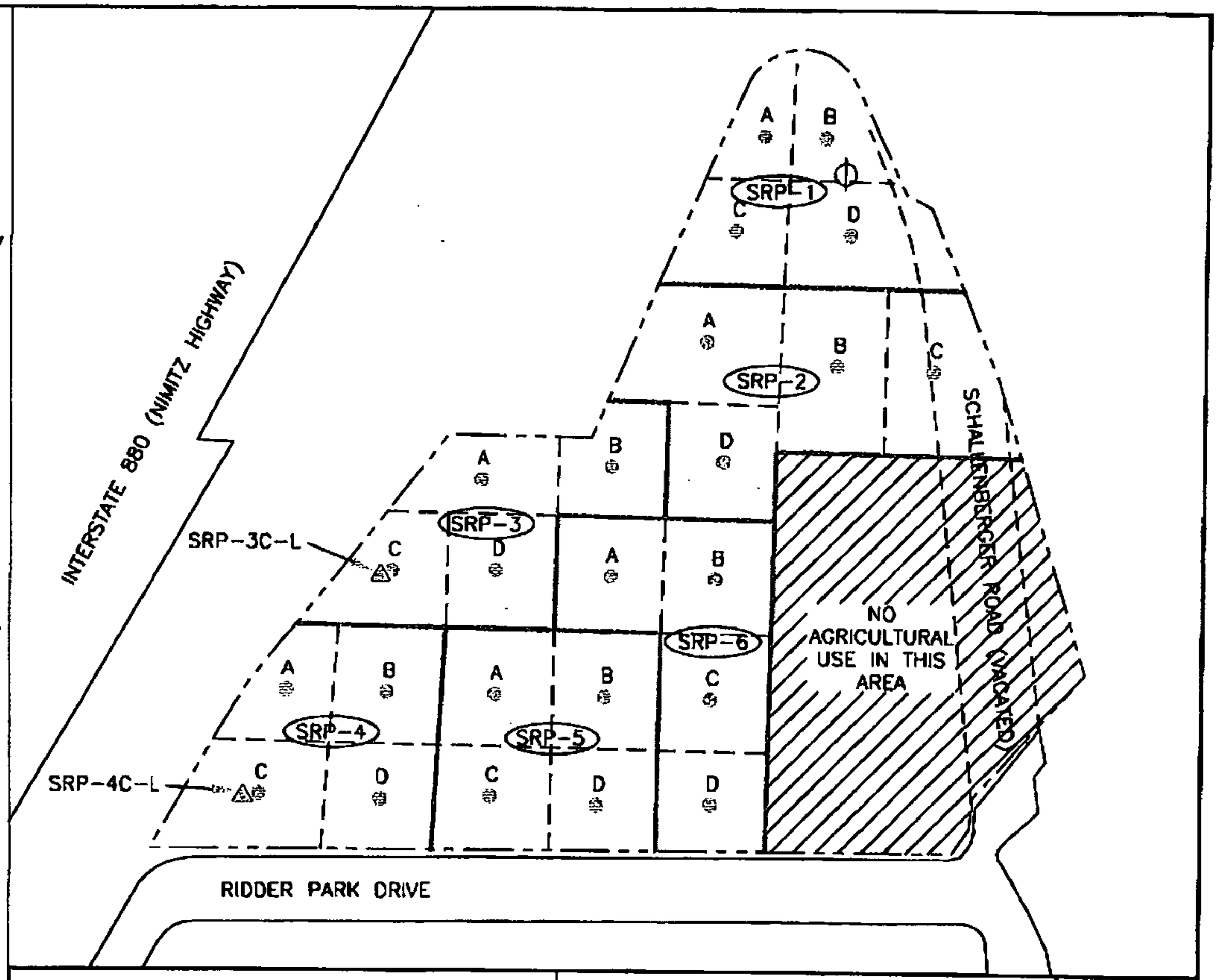
KLEINFELDER	SITE VICINITY MAP CREEKSIDE PLAZA SITE RIDDER PARK DRIVE AT E. BROKAW ROAD SAN JOSE, CALIFORNIA	PLATE 1
DRAFTED BY: L. Sue/J. Salo DATE: 11-30-99		
CHECKED BY: L. Freeman DATE: 03-01-01	PROJECT NO. 44-000414-001	

SD FILE: L:\2001\01PROJ\44000414\001\SITE-VIC.dwg

LEGEND

- PROPERTY BOUNDARY
- GRID BOUNDARY
- SAMPLE LOCATION (By Kleinfelder 2001)
- GRAB SAMPLE LOCATION (By Kleinfelder 2001)
- TELEPHONE POLE
- SRP-1 COMPOSIT SAMPLE AREA
- A GRID DESIGNATION

NOTE: Locations are approximate.



240 0 240

APPROXIMATE SCALE (feet)

REFERENCE:
Office of County Assessor, Santa Clara County, "Book 237, Page 5."

KLEINFELDER

DRAFTED BY: L. Sue/J. Sala DATE: 11-30-99

CHECKED BY: G. Goodemote DATE: 03-01-01

SITE PLAN

CREEKSIDE PLAZA SITE
RIDDER PARK DRIVE AT E. BROKAW ROAD
SAN JOSE, CALIFORNIA

PROJECT NO. 44-000414-001

PLATE 2

CAD FILE: L:\2001\01PROJ\44000414\001\SITEPLAN.dwg

TABLES

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Table 1
Summary of Analytical Results for Soil Samples Collected at Creekside Plaza Site, San Jose, California
February, 2001

Analyte	Analytical Method Number	Reporting Limits	Industrial PRG	Composite Sample Results						Direct Sample Results	
				[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Chlorinated Pesticides[a]											
4,4- DDE	8080	0.01	12	0.022	0.016	0.017	0.029	ND	ND	NA	NA
4,4-DDT	8080	0.01	12	ND	0.011	ND	0.013	ND	ND	NA	NA
All other Analytes	8080	0.01 - 0.1	--	ND	ND	ND	ND	ND	ND	ND	ND
CAM 17 Metals*											
Arsenic	7060/206.2	2.5	2.7/27	4.1	3.6	3.4	3.5	3.9	ND	NA	NA
Barium	6010/200.7	2.5	100,000	160	150	130	140	160	190	NA	NA
Chromium	6010/200.7	0.05	448	59	68	47	49	50	61	NA	NA
Cobalt	6010/200.7	2	100,000	12	15	10	11	11	15	NA	NA
Copper	6010/200.7	2	75,908	29	33	26	26	28	36	NA	NA
Lead	6010/200.7	3	1,000	27	43	22	27	15	18	28	22
Mercury	7470/7471/245.1/245.5	0.06	613	ND	0.086	0.092	0.078	0.092	0.084	NA	NA
Nickel	6010/200.7	2	40,877	100	100	81	83	77	95	NA	NA
Vanadium	6010/200.7	2	14,308	36	45	28	29	33	42	NA	NA
Zinc	6010/200.7	1	100,000	73	83	63	65	65	78	NA	NA
All other Analytes	6010/200.7	0.06 - 2.5	--	ND	ND	ND	ND	ND	ND	ND	ND

Notes:

ND = Not Detected Above Analytical Detection Limit

NA = Not Analyzed

PRG = USEPA Region 9 Preliminary Remediation Goals

* Only detected analytes are reported

** reported in milligrams per kilograms (mg/kg)

ANALYTICAL LABORATORY REPORTS

KLEINFELDER 1970 Broadway, Suite 710, Oakland, CA 94612 (510) 628-9000 (510) 628-9009 fax

McCAMPBELL ANALYTICAL INC.
110 2nd Avenue South, #D7. Pacheco, CA 94553-5560
Telephone : 925-798-1620 Fax : 925-798-1622
http://www.mccampbell.com E-mail: main@mccampbell.com

Kleinfelder, Inc. 7133 Koll Center Pkwy, #100 Pleasanton, CA 94566	Client Project ID: Schallenberger Road	Date Sampled: 02/22/01
		Date Received: 02/23/01
	Client Contact: Charles Almestad	Date Extracted: 02/23/01
	Client P.O:	Date Analyzed: 02/23-02/27/01

Chlorinated Pesticides (including PCBs)

EPA method 608 and 3510 or 8080 and 3550

Lab ID	60756	60757	60758	60759	60760	Reporting Limit	
Client ID	SRP-1	SRP-2	SRP-3	SRP-4	SRP-5	S	W, STLC, TCLP
Matrix	S	S	S	S	S		
Compound	Concentration*					ug/kg	ug/L
Aldrin	ND	ND	ND	ND	ND	10	0.02
α-BHC	ND	ND	ND	ND	ND	10	0.02
β-BHC	ND	ND	ND	ND	ND	10	0.02
γ-BHC (Lindane)	ND	ND	ND	ND	ND	10	0.02
σ-BHC	ND	ND	ND	ND	ND	10	0.02
Chlordane	ND	ND	ND	ND	ND	10	0.02
p,p'-DDD[k]	ND	ND	ND	ND	ND	10	0.02
p,p'-DDE[k]	22	16	17	29	ND	10	0.02
p,p'-DDT[k]	ND	11	ND	13	ND	10	0.02
Dieldrin	ND	ND	ND	ND	ND	10	0.02
Endosulfan I	ND	ND	ND	ND	ND	10	0.02
Endosulfan II	ND	ND	ND	ND	ND	10	0.02
Endosulfan Sulfate	ND	ND	ND	ND	ND	10	0.02
Endrin	ND	ND	ND	ND	ND	10	0.02
Endrin Aldehyde	ND	ND	ND	ND	ND	10	0.02
Heptachlor	ND	ND	ND	ND	ND	10	0.01
Heptachlor Epoxide	ND	ND	ND	ND	ND	10	0.01
p,p'-Methoxychlor[k]	ND	ND	ND	ND	ND	10	0.02
PCB-Total[f]	ND<250	ND	ND	ND	ND	50	0.5
Toxaphene	ND<500	ND	ND	ND	ND	100	1
% Recovery Surrogate	100	107	99	90	95		
Comments							

* water and vapor samples are reported in ug/L, oils in mg/L, soil and sludge samples in ug/kg, wipes in ug/wipe and all TCLP / SPLP extracts in ug/L.

ND means not detected above the reporting limit; N/A means analyte not applicable to this analysis

' surrogate diluted out of range or surrogate coelutes with another peak

"(a) PCB aroclor 1016; (b) PCB aroclor 1221; (c) PCB aroclor 1232; (d) PCB aroclor 1242; (e) PCB aroclor 1248; (f) PCB aroclor 1254, (g) PCB aroclor 1260; (h) a lighter than water immiscible sheen is present; (i) liquid sample that contains >5 vol. % sediment; (j) sample diluted due to high organic content; (k) p,p'- is the same as 4,4'-; (l) florisil (EPA 3620) cleanup; (m) silica gel (EPA 3630) cleanup.

DHS Certification No. 1644

Edward Hamilton, Lab Director

McCAMPBELL ANALYTICAL INC.
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http://www.mccampbell.com E-mail: main@mccampbell.com

Kleinfelder, Inc. 7133 Koll Center Pkwy, #100 Pleasanton, CA 94566	Client Project ID: Schallenberger Road	Date Sampled: 02/22/01
		Date Received: 02/23/01
	Client Contact: Charles Almestad	Date Extracted: 02/23/01
	Client P.O:	Date Analyzed: 02/23-02/27/01

Chlorinated Pesticides (including PCBs)

EPA method 608 and 3510 or 8080 and 3550

							Reporting Limit	
Lab ID	60761						S	W, STLC, TCLP
Client ID	SRP-6							
Matrix	S							
Compound	Concentration*						ug/kg	ug/L
Aldrin	ND						10	0.02
α-BHC	ND						10	0.02
β-BHC	ND						10	0.02
γ-BHC (Lindane)	ND						10	0.02
δ-BHC	ND						10	0.02
Chlordane	ND						10	0.02
p,p'-DDD[g]	ND						10	0.02
p,p'-DDE[g]	ND						10	0.02
p,p'-DDT[g]	ND						10	0.02
Dieldrin	ND						10	0.02
Endosulfan I	ND						10	0.02
Endosulfan II	ND						10	0.02
Endosulfan Sulfate	ND						10	0.02
Endrin	ND						10	0.02
Endrin Aldehyde	ND						10	0.02
Heptachlor	ND						10	0.01
Heptachlor Epoxide	ND						10	0.01
p,p'-Methoxychlor[k]	ND						10	0.02
PCB-Total[d]	ND						50	0.5
Toxaphene	ND						100	1
% Recovery Surrogate	96							
Comments								

* water and vapor samples are reported in ug/L, wipes in mg/L, soil and sludge samples in ug/kg, wipes in ug/wipe and all TCLP / SPLP extracts in ug/L.

ND means not detected above the reporting limit; N/A means analyte not applicable to this analysis

' surrogate diluted out of range or surrogate coelutes with another peak

"(a) PCB aroclor 1016; (b) PCB aroclor 1221; (c) PCB aroclor 1232; (d) PCB aroclor 1242; (e) PCB aroclor 1248; (f) PCB aroclor 1254; (g) PCB aroclor 1260; (h) a lighter than water immiscible sheen is present; (i) liquid sample that contains >~5 vol. % sediment; (j) sample diluted due to high organic content; (k) p,p'- is the same as 4,4'-; (l) florisil (EPA 3620) cleanup; (m) silica-gel (EPA 3630) cleanup.

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Kleinfelder, Inc. 7133 Koll Center Pkwy, #100 Pleasanton, CA 94566	Client Project ID: Schallenberger Road	Date Sampled: 02/22/01
		Date Received: 02/23/01
	Client Contact: Charles Almestad	Date Extracted: 02/23/01
	Client P.O:	Date Analyzed: 02/23/01

CAM / CCR 17 Metals*

EPA methods 6010/200.7; 7470/7471/245.1/245.5 (Hg); 7060/206.2 (As); 7740/270.2 (Se); 7841/279.2 (Tl); 239.2 (Pb, water matrix)

Lab ID	60756	60757	60758	60759	Reporting Limit		
Client ID	SRP-1	SRP-2	SRP-3	SRP-4			
Matrix	S	S	S	S	S	W	STLC, TCLP
Extraction**	TTLC	TTLC	TTLC	TTLC	TTLC	TTLC	
Compound	Concentration*				mg/kg	mg/L	mg/L
Antimony (Sb)	ND	ND	ND	ND	2.5	0.006	0.05
Arsenic (As)	4.1	3.6	3.4	3.5	2.5	0.005	0.25
Barium (Ba)	160	150	130	140	2.5	0.05	0.05
Beryllium (Be)	ND	ND	ND	ND	0.5	0.004	0.01
Cadmium (Cd)	ND	ND	ND	ND	0.5	0.005	0.01
Chromium (Cr)	59	66	47	49	0.5	0.02	0.05
Cobalt (Co)	12	15	10	11	2.0	0.05	0.05
Copper (Cu)	29	33	26	26	2.0	0.05	0.05
Lead (Pb)	27	43	22	27	3.0	0.005	0.2
Mercury (Hg)	ND	0.085	0.092	0.078	0.06	0.0008	0.005
Molybdenum (Mo)	ND	ND	ND	ND	2.0	0.05	0.05
Nickel (Ni)	100	100	81	83	2.0	0.05	0.05
Selenium (Se)	ND	ND	ND	ND	2.5	0.005	0.25
Silver (Ag)	ND	ND	ND	ND	1.0	0.01	0.05
Thallium (Tl)	ND	ND	ND	ND	2.5	0.005	0.5
Vanadium (V)	36	45	28	29	2.0	0.05	0.05
Zinc (Zn)	73	83	63	65	1.0	0.05	0.05
% Recovery Surrogate	108	117	102	107			
Comments							

* water samples are reported in mg/L, soil and sludge samples in mg/kg, wipes in ug/wipe and all TCLP / STLC / SPLP extracts in mg/L.

ND means not detected above the reporting limit; N/A means surrogate not applicable to this analysis

** EPA extraction methods 1311(TCLP), 3010/3020(water,TTLC), 3040(organic matrices,TTLC), 3050(solids,TTLC); STLC - CA Title 22

*** DISTLC extractions are performed using STLC methodology except that deionized water is substituted for citric acid buffer as the extraction fluid. DISTLC results are not applicable to STLC regulatory limits.

surrogate diluted out of range

@ reporting limit raised due to matrix interference

i) liquid sample that contains greater than ~2 vol. % sediment; this sediment is extracted with the liquid, in accordance with EPA methodologies and can significantly effect reported metal concentrations.

DHS Certification No. 1644

Edward Hamilton, Lab Director

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Kleinfelder, Inc. 7133 Koll Center Pkwy, #100 Pleasanton, CA 94566	Client Project ID: Schallenberger Road	Date Sampled: 02/22/01
		Date Received: 02/23/01
	Client Contact: Charles Almestad	Date Extracted: 02/23/01
	Client P.O:	Date Analyzed: 02/23/01

CAM / CCR 17 Metals*

EPA methods 6010/200.7; 7470/7471/245.1/245.5 (Hg); 7060/206.2 (As); 7740/270.2 (Se); 7841/279.2 (Tl); 239.2 (Pb, water matrix)

Lab ID	60760	60761			Reporting Limit		
Client ID	SRP-5	SRP-6					
Matrix	S	S			S	W	STLC, TCLP
Extraction°	TTLC	TTLC			TTLC	TTLC	
Compound	Concentration*				mg/kg	mg/L	mg/L
Antimony (Sb)	ND	ND			2.5	0.006	0.05
Arsenic (As)	3.9	ND			2.5	0.005	0.25
Barium (Ba)	160	190			2.5	0.05	0.05
Beryllium (Be)	ND	ND			0.5	0.004	0.01
Cadmium (Cd)	ND	ND			0.5	0.005	0.01
Chromium (Cr)	50	61			0.5	0.02	0.05
Cobalt (Co)	11	15			2.0	0.05	0.05
Copper (Cu)	28	36			2.0	0.05	0.05
Lead (Pb)	15	18			3.0	0.005	0.2
Mercury (Hg)	0.092	0.084			0.06	0.0008	0.005
Molybdenum (Mo)	ND	ND			2.0	0.05	0.05
Nickel (Ni)	77	95			2.0	0.05	0.05
Selenium (Se)	ND	ND			2.5	0.005	0.25
Silver (Ag)	ND	ND			1.0	0.01	0.05
Thallium (Tl)	ND	ND			2.5	0.005	0.5
Vanadium (V)	33	42			2.0	0.05	0.05
Zinc (Zn)	65	78			1.0	0.05	0.05
% Recovery Surrogate	103	110					
Comments							

* water samples are reported in mg/L, soil and sludge samples in mg/kg, wipes in ug/wipe and all TCLP / STLC / SPLP extracts in mg/L

ND means not detected above the reporting limit; N/A means surrogate not applicable to this analysis

° EPA extraction methods 1311(TCLP), 9010/9020(water,TTLC), 3040(organic matrices,TTLC), 3050(solids,TTLC); STLC - CA Title 22

** DISTLC extractions are performed using STLC methodology except that deionized water is substituted for citric acid buffer as the extraction fluid. DISTLC results are not applicable to STLC regulatory limits.

surrogate diluted out of range

▲ reporting limit raised due to matrix interference

1) liquid sample that contains greater than ~2 vol. % sediment; this sediment is extracted with the liquid, in accordance with EPA methodologies and can significantly affect reported metal concentrations.

DHS Certification No. 1644

Edward Hamilton, Lab Director

McCAMPBELL ANALYTICAL INC.

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Telephone : 925-798-1620 Fax : 925-798-1622
http://www.mccampbell.com E-mail: main@mccampbell.com

Kleinfelder, Inc. 7133 Koll Center Pkwy, #100 Pleasanton, CA 94566	Client Project ID: Schallenberger Road	Date Sampled: 02/22/01
		Date Received: 02/23/01
	Client Contact: Charles Almestad	Date Extracted: 02/23/01
	Client P.O:	Date Analyzed: 02/23/01

Lead*

EPA analytical methods 6010/200.7, 239.2*

Lab ID	Client ID	Matrix	Extraction °	Lead*	% Recovery Surrogate
60762	SRP-3C-L	S	TTLC	26	107
60763	SRP-4C-L	S	TTLC	22	106
Reporting Limit unless otherwise stated; ND means not detected above the reporting limit		S	TTLC	3.0 mg/kg	
		W	TTLC	0.005 mg/L	
		—	STLC,TCLP	0.2 mg/L	

* soil and sludge samples are reported in mg/kg, wipe samples in ug/wipe, and water samples and all STLC / SPLP / TCLP extracts in mg/L

*Lead is analysed using EPA method 6010 (ICP)for soils, sludges, STLC & TCLP extracts and method 239.2 (AA Furnace) for water samples

~ DISTLC extractions are performed using STLC methodology except that deionized water is substituted for citric acid buffer as the extraction fluid. DISTLC results are not applicable to STLC regulatory limits.

° EPA extraction methods 1311(TCLP), 3010/3020(water,TTLC), 3040(organic matrices,TTLC), 3050(solids,TTLC); STLC - CA Title 22

surrogate diluted out of range; N/A means surrogate not applicable to this analysis

^ reporting limit raised due matrix interference

i) liquid sample that contains greater than ~2 vol. % sediment; this sediment is extracted with the liquid, in accordance with EPA methodologies and can significantly effect reported metal concentrations.

DHS Certification No. 1644

[signature] Edward Hamilton, Lab Director

KLEINFELDER 24615216319.doc

PROJECT NO.	PROJECT NAME	NO. OF CONTAINERS	TYPE OF CONTAINERS	ANALYSIS: Pesticides (8081)	ANALYSIS: Title 22 metals	RECEIVING LAB:
	Schillenberger Road					RUSH
LAB NO. / P.O. NO.	SAMPLERS: (Signature/Number) Amy Goodenotte					

	DATE (MM/DD/YY)	SAMPLE ID TIME (HH:MM:SS)	SAMPLE I.D.	MATRIX					
1	2/22/01	1105	SRP-1A	Soil	1		X	X	60756
2		1100	SRP-1B	"	1		X	X	Composite & report as SRP-1
3		1110	SRP-1C	"	1		X	X	
4		1055	SRP-1D	"	1		X	X	
5		1115	SRP-2A	"	1		X	X	60757
6		1050	SRP-2B	"	1		X	X	Composite & report as SRP-2
7		1045	SRP-2C	"	1		X	X	
8		1120	SRP-2D	"	1		X	X	
9		1715	SRP-3A	"	1		X	X	60758
10		1125	SRP-3B	"	1		X	X	Composite & report as SRP-3
11		1710	SRP-3C	"	1		X	X	
12		1050	SRP-3D	"	1		X	X	
13		1705	SRP-4A	"	1		X	X	60759
14		1020	SRP-4B	"	1		X	X	Composite & report as SRP-4
15		1700	SRP-4C	"	1		X	X	
16		1110	SRP-4D	"	1		X	X	
17		1005	SRP-5A	"	1		X	X	60760
18		1035	SRP-5B	"	1		X	X	Composite & report as SRP-5
19		1040	SRP-5C	"	1		X	X	
20	↓	0955	SRP-5D	"	1		X	X	

Relinquished by: (Signature)	Date/Time	Received by: (Signature)
Amy Goodenotte	2/23/01 0850	Mona Venegas
Relinquished by: (Signature)	Date/Time	Received by: (Signature)
Relinquished by: (Signature)	Date/Time	Received for Laboratory by: (Signature)

ICE? ✓
GOOD CONDITION
HEAD SPACE ABSENT ____

PRESERVATION ✓
APPROPRIATE
CONTAINERS ✓

Instructions/Remarks:
RUSH 12-hr TAT

Send Reports to:
KLEINFELDER
1970 Broadway
SUITE 710
Oakland, CA 94612
(510) 628-9000
Attn: Charles Almstead

M-60 White - Sample(s) Canary - Return Copy To Shipper Pink - Lab Copy

CHAIN OF CUSTODY

№ 0240

KLEINFELDER

PROJECT NO.	PROJECT NAME	NO. OF CONTAINERS	TYPE OF CONTAINERS	ANALYSIS: Pesticides (8080)	title 22 metals	Lead	RECEIVING LAB:
	Schallenberger Road						
P.O. NO. / P.O. NO.	SAMPLERS: (Signature/Number) Amy Academate						INSTRUCTIONS/REMARKS
DATE M/M/DD/YY	SAMPLE NO. TIME HH:MM:SS	SAMPLE I.D.	MATRIX				
1 2/22/01	1135	SRP - 6A	Soil	1		X X	60761
2 "	1140	SRP - 6B	"	1		X X	Composite & report as
3 "	1145	SRP - 6C	"	1		X X	SRP-6
4 "	0950	SRP - 6D	"	1		X X	
5 "	1025	SRP - 3C-L	"	1		X	60762
6 "	1020	SRP - 4C-L	"	1		X	60763
7							
8							
9							
10							
11							
12							
13							
14							
15							
16							
17							
18							
19							
20							

ICE/T ✓ GOOD CONDITION ✓ PRESERVATION APPROPRIATE
HEAD SPACE ABSENT ___ CONTAINERS ✓

VOAS | O&G | METALS | OTHER

Relinquished by: (Signature)	Date/Time	Received by: (Signature)	Instructions/Remarks
Amy Academate	2/23/01 0850	Maria Venegas	RUSH 12-hr TAT
Relinquished by: (Signature)	Date/Time	Received by: (Signature)	
Relinquished by: (Signature)	Date/Time	Received for Laboratory by: (Signature)	

Send Results to:
KLEINFELDER
1970 Broadway
SUITE 710
Oakland, CA 94612
(510) 628-8000
Charles Almestad

K 60 White - Sampler Canary - Return Copy To Shipper Pink - Lab Copy

CHAIN OF CUSTODY

№ 0239

GUIDANCE FROM USEPA WEBSITE BACKGROUND CONCENTRATIONS OF SELECTED ELEMENTS IN SOILS

KLEINFELDER 1970 Broadway, Suite 710, Oakland, CA 94612 (510) 628-9000 (510) 628-9009 fax

EXHIBIT 3-2
BACKGROUND CONCENTRATIONS OF SELECTED ELEMENTS IN SOILS

TRACE ELEMENT	U.S. STUDY DATA[1]			CALIFORNIA DATA[2]		
	Range	GeoMean	ArMean	Range	GeoMean	ArMean
Arsenic	<.1-97	5.2 mg/kg	7.2 mg/kg	0.59-11	2.75 mg/kg	3.54 mg/kg
Beryllium	<1-15	0.63 "	0.92 "	0.10-2.7	1.14 "	1.28 "
Cadmium	<1-10	--	<1	0.05-1.7	0.26	0.36
Chromium	1-2000	37	54	23-1579	76.25	122.08
Nickel	<5-700	13	19	9.0-509	35.75	56.60

[1]Shacklette and Hansford, "Element Concentrations in Soils and Other Surficial Materials of the Conterminous United States",USGS Professional Paper 1270, 1984.

[2]Bradford et. al, "Background Concentrations of Trace and Major Elements in California Soils", Kearney Foundation Special Report, UC-Riverside and CAL-EPA DTSC, March 1996.

Reference: USEPA Region 9 PRG Background Information (Downloaded 2/28/01)

V. COPIES OF COMMENT LETTERS

STATE OF CALIFORNIA--BUSINESS, TRANSPORTATION AND HOUSING AGENCY GRAY DAVIS, Governor

DEPARTMENT OF TRANSPORTATION
BOX 23660
OAKLAND, CA 94623-0660
(510) 286-4444
TDD (510) 286-4454

February 5, 2001

SCL-880-4.08
2000102049
SCL880201

Mr. Ron Eddow
Department of Planning, Building
and Code Enforcement
801 North First Street, Room 400
San Jose, CA 95110-1795

Dear Mr. Eddow:

Thank you for continuing to include the California Department of Transportation (Caltrans) in the environmental review process for the proposed Creekside Plaza project. We have examined the above-referenced document and have the following comments:

We would like to know the length of the storage lanes on both the existing and proposed right-turn lanes on the northbound Interstate 880 (I-880) off-ramp. We want to make sure that the traffic queues do not extend to the mainline.

Should you require further information or have any questions regarding this letter, please call Haiyan Zhang of my staff at (51) 622-1641.

Sincerely,

HARRY Y. YAHATA
District Director

By Jean CR Finney

JEAN C. R. FINNEY
District Branch Chief
IGR/CEQA

c: State Clearinghouse

Department of Toxic Substances Control

Edwin F. Lowry, Director
700 Heinz Avenue, Suite 200
Berkeley, California 94710-2721

January 31, 2001

Mr. Ron Eddow
Department of Planning, Building
and Code Enforcement
City of San Jose
801 North First Street
San Jose, California 95110-1795

Dear Mr. Eddow:

Thank you for the opportunity to comment on the Draft Environmental Impact Report (Draft EIR) for the Creekside Plaza site Development Permit, located at northwest of Ridder Park Drive between Brokaw Road, Coyote Creek and Interstate 880 [SCH #2000102049]
As you may be aware, the California Department of Toxic Substances Control (DTSC) oversees the cleanup of sites where hazardous substances have been released pursuant to the California Health and Safety Code, Division 20, Chapter 6.8. As a resource agency, DTSC is submitting comments to ensure that the environmental documentation prepared for this project to address the California Environmental Quality Act (CEQA) adequately addresses any required remediation activities which may be required to address any hazardous substances release.

The proposed project is to construct two office/R&D buildings on a 17.4 acre parcel within the Rincon de Los Esteros Redevelopment area of San Jose. Section H of the Draft EIR states that the site is a vacant parcel that was previously used for agricultural purposes. We strongly recommend that sampling be conducted to determine whether residual pesticides are present at elevated concentrations. If so, this is an issue which will need to be addressed in the CEQA compliance document.

If hazardous substances have been released, they will need to be addressed as part of this project. For example, if the remediation activities include the need for soil excavation, the CEQA document should include: (1) an assessment of air impacts and health impacts associated with the excavation activities; (2) identification of any applicable local standards which may be exceeded by the excavation activities, including dust levels and noise; (3) transportation impacts from the removal or remedial activities; and (4) risk of upset should be there an accident at the Site.

DTSC recommends the following soil sampling actions at potential school sites previously used for agriculture and provided as an example for your agency.

Soil Sampling

When little is known about a site other than it was used for agriculture, it is assumed that the land was farmed in a uniform manner. Each field of the same crop is assumed to have been watered, fertilized, and treated with pesticides to the same degree across the field. Therefore contaminant levels are expected to be similar at any given location within the field. Most agricultural soil is considered to be in an aerobic state (exceptions include rice fields) and pesticides that are relatively stable under aerobic conditions are the targets for sampling. When near-surface conditions exist that establish anaerobic soil over an extended time, then anaerobically stable pesticides should be considered as targets.

- Sample in at least 8 locations with each location made up of a composite of five subsamples if allowed by the criteria for compositing discussed below.

The sampling pattern should be a triangular grid with the starting point randomly selected. Each location should be sampled at the surface (zero to six inches). For better coverage, the surface sample may be a composite of subsamples, not to exceed 10 subsamples. The subsamples should be individually and uniformly split prior to compositing. The split of each subsample should be retained in case analysis is warranted from the composite results. Compositing shall not be performed to reduce the sampling frequency suggested above, but to provide a more representative picture of the soil. To this end, subsamples should be spaced over 10 feet apart.

Compositing should only be done when the reporting limit (quantifiable level) for the method does not exceed the U.S. EPA Region IX Preliminary Remedial Goals (PRG) of an analyte divided by the number of subsamples in the composite. When the result of a composite sample exceeds the PRG divided by the number of subsamples for an analyte, the subsamples must be analyzed individually for the analyte. Sites, greater than 10 acres in size that cannot composite due to this limitation, will need to increase the number of locations sampled to compensate for the loss of coverage provided by the compositing but need not exceed 20 samples. [For example, a 30-acre site sampled at eight locations with five subsamples at each location will gather a total of 40 subsamples. If, due to detection limits, the number of subsamples composited is limited to four, then 32 subsamples would have been gathered. By taking an additional two locations, the number of subsamples will again return to 40.]

At specific locations, where it is likely that pesticide storage, preparation, or equipment rinsing took place, sampling should be performed at the surface (zero to six inches) and subsurface (~two'). Subsurface sampling may also be indicated when the terrain has been regraded or fill brought in. Low lying swales, ponded areas, or marsh where sediment runoff may have collected should be additionally sampled with subsurface

samples analyzed for pesticides that are stable under anaerobic conditions when their use is suspected [i.e., ametryn, cyromazine, thiabendazole].

Analytical Methods

When the land is under active agricultural practices, the farmer/rancher must be interviewed to determine the types and amounts of pesticides recently used. The County Agricultural Commission should be consulted to determine if any restricted pesticides were used on the property in the last three years. Analysis should be performed for the most persistent pesticides used. In addition, analysis for organochlorine pesticides and heavy metals should be performed.

- Each sample should be analyzed for organochlorine pesticides(method 8081A), triazine herbicides (8141A with NPD), organophosphorus pesticides (8141A), and chlorinated herbicides (8151A). In addition, a metal scan (6010B or 6020) should be performed and, when crops may have been planted with treated seed, an analysis for mercury (7471A) run.

The above analyses will detect most of the longest lived, most toxic, or most used pesticides & herbicides. Many fertilizers contain heavy metals as do some fungicides. Mercury compounds have been used to treat seed to improve germination by limiting fungal attack. Additional scans should be employed where knowledge of the site indicates other contaminants may be present.

Quality Control

- Quality control procedures specified in U.S. EPA SW-846 guidance must be followed.

Reporting

The logic the consultants used in selecting the samples needs to be explained. As more knowledge is available about a site, the sampling effort can become more focused and efficient in providing the necessary information. The quality of the data must be documented to give assurance that the data is valid and appropriate for the included use. This will avoid having to repeat the sampling and analysis, and will allow for review of the decisions made. The National Functional Guidelines are used by EPA to evaluate CLP data and is a well recognized protocol. Data may be qualified using alternative procedures as long as the protocol is described or referenced.

- The report should provide the rationale for selecting the locations, depths, and analytical methods.

- The laboratory data package must include a summary of the quality control sample results: blanks, matrix spike/matrix spike duplicate, surrogate recoveries, laboratory control samples, etc. as specified by the method. The laboratory should provide a narrative stating whether the quality control was met and listing any discrepancies. The data must be qualified in accordance with the National Functional Guidelines (EPA-540R-94-012 and -013).

Data Interpretation

- Analysis should be initially compared to PRGs, and lead results to Lead Spread. It may be appropriate to compare metal results that exceed PRGs with background levels (use local background levels as a first comparison). This may result in the need to take background samples. Because agricultural activities cover large areas of ground, background sampling locations must be carefully selected and evaluated. The Preliminary Endangerment Assessment Guidance Manual should be used for final evaluation of the site.

In the near future, DTSC will be administering the $85 million Urban Cleanup Loan program, which provide low-interest loans to investigate and cleanup hazardous materials at properties where redevelopment is likely to have a beneficial impact to a community. The program is composed of two main components: low interest loans of up to $100,000 to conduct preliminary endangerment assessments of underutilized properties; and loans of up to $2.5 million for the cleanup or removal of hazardous materials also at underutilized urban properties. These loans are available to developers, businesses, schools, and local governments. A fact sheet regarding this program is attached for your information.

If you have any questions regarding this issue, please call Lynn Nakashima of my staff at (510) 540-3839.

Sincerely,

Barbara J. Cook, P.E., Chief
Northern California - Coastal Cleanup
Operations Branch

Enclosures

cc: (without enclosures)

Governor's Office of Planning and Research
State Clearinghouse
P. O. Box 3044
Sacramento, California 95812-3044

Guenther Moskat
CEQA Tracking Center
Department of Toxic Substances Control
P. O. Box 806
Sacramento, California 95812-0806

SANTA CLARA
Valley Transportation Authority

February 5, 2001

City of San Jose
Department of Planning, Building and Code Enforcement
801 North First Street
San Jose, CA 95110

Attention: Ron Eddow, Project Manager

Subject: File No.: H00-08-063 / Creekside Plaza DEIR

Dear Mr. Eddow:

Santa Clara Valley Transportation Authority (VTA) staff have reviewed the Draft Environmental Impact Report (DEIR) for construction of 265,000 square feet of office/research uses on a 17.4 gross acre site located on the southeast corner of I-880 and Brokaw Road. We have the following comments regarding possible impacts to planned improvements at the I-880/Brokaw Road interchange, Transportation Impact Analysis, and existing bus transit services.

I-880 Interchange Improvements

VTP 2020 is the 20-year transportation plan for Santa Clara County and was adopted by the VTA Board of Directors in December 2000. VTP 2020 includes a proposed project sponsored by the City of San Jose entitled "Brokaw Road/I-880 interchange improvements" with an estimated cost of $35 million of which a portion or all of the funding would likely be from State Transportation Improvement Program (STIP) funds under the control of VTA and programmed in the 2006 or later STIP process.

The DEIR indicates that the proposed Creekside Plaza development would apparently extend to the property line adjacent to I-880 and Brokaw Road, primarily with parking improvements. As the existing I-880/Brokaw Road Interchange has very constrained geometrics and right of way, it is unlikely the City's proposed future interchange would be accommodated without disruption to the development proposed in the DEIR. As the Congestion Management Agency, VTA is concerned the proposed Creekside Plaza development in the DEIR would result in additional right of way costs for the future interchange project beyond what is currently anticipated for potential STIP funding. The City should modify the development to minimize the future interchange costs, or be prepared to provide the additional funding necessitated if the interchange project is implemented and disrupts the development's improvements as proposed in the DEIR.

As was commented in the November 8, 2000 VTA response to the Notice of Preparation, coordination with the Transportation Division of the City of San Jose would assist in the minimizing the impacts to the proposed development and the City's proposed interchange project.

Transportation Demand Management

VTA recommends implementing a variety of Transportation Demand Management (TDM) actions in order to help reduce the number of newly generated auto trips for the office development. Such measures can include:

- Charging for parking
- Parking cash-out or other payments for taking alternate modes
- In-house carpool matching for employees
- Vanpool program
- Preferentially located carpool parking
- In-house shuttle connection to transit and to lunch/convenience services
- Co-sponsoring of transit connection shuttle or local shuttle
- Bicycle lockers, racks
- Showers, clothes lockers
- On-site or walk-accessible employee services (day-care, dry-cleaning, fitness, banking, convenience store)
- On-site or walk-accessible restaurants
- Guaranteed ride home program
- Transit fare incentives: Eco-Pass; Commuter Checks

The DEIR indicates that the project proposes to include bicycle parking near employee entrances, showers for use by employees that commute by bicycle, and a High Occupancy Vehicle (HOV) Parking Preference Program. VTA strongly recommends that bicycle parking include bicycle racks for short-term visitor parking and bicycle lockers for long-term employee use. VTA's *Bicycle Technical Guidelines* offer guidance on estimating supply, siting, and design for bicycle parking. For a copy of the guidelines, please contact Sylvia Star-Lack at (408) 321-5725.

Pedestrian Facilities

The DEIR indicates that the project will include pedestrian facilities on the north side of Ridder Park Drive. Pedestrian-scale lighting should also be included in the site plans in order to provide safe and convenient access to nearby bus stops.

We appreciate the opportunity to review this project. If you have any questions, please call Christina Jaworski of my staff at (408) 321-5751.

Sincerely,

Roy Molseed
Senior Environmental Analyst

cc: Timm Borden, City of San Jose Public Works Department
Dianna Butcher, City of San Jose Transportation Division

RM:CTJ:kh

Pacific Gas and Electric Company
San Jose Division

111 Almaden Blvd., Room 814
San Jose, CA 95115
408-282-7138

January 8, 2001

Ron Eddow, Senior Planner
City of San Jose
Department of Planning
801 North First Street
San Jose, CA 95110-1795

Post-it™ Fax Note 7671	Date 1/19/01	# of pages ▶ 3
To Nora Monette	From Ron Eddow	
Co./Dept. DJ Powers Assoc	Co. CSJ Plng	
Phone #	Phone # 277-8758	
Fax # 248-9641	Fax #	

Re: Comments
DEIR - Creekside Plaza - 17.4 acres
H00-08-063

Dear Mr. Eddow:

Thank you for the opportunity to review the Draft Environmental Impact Report (DEIR) for the proposed Creekside Plaza project. PG&E has the following comments to offer.

PG&E owns and operates gas and electric facilities which are located within and adjacent to the proposed project. To promote the safe and reliable maintenance and operation of utility facilities, the California Public Utilities Commission (CPUC) has mandated specific clearance requirements between utility facilities and surrounding objects or construction activities. To ensure compliance with these standards, project proponents should coordinate with PG&E early in the development of their project plans. Any proposed development plans should provide for unrestricted utility access and prevent easement encroachments that might impair the safe and reliable maintenance and operation of PG&E's facilities.

Developers will be responsible for the costs associated with the relocation of existing PG&E facilities to accommodate their proposed development. Because facilities relocation's require long lead times and are not always feasible, developers should be encouraged to consult with PG&E as early in their planning stages as possible.

We would also like to note that continued development consistent with your Plans will have a cumulative impact on PG&E's gas and electric systems and my require on-site and off-site additions and improvements to the facilities which supply these services. Because utility facilities are operated as an integrated system, the presence of an existing gas or electric transmission or distribution facility does not necessarily mean the facility has capacity to connect to new loads.

PG&E operates and maintains a pole line within the subject boundary lines with an overhead capacitor. A new route with respective easements may be required if the these facilities will have to be relocated or converted to underground. It is recommended that the developer include in the EIR the aspect of relocation - including the need for a planning permit if the capacitor has to be relocated to a pad mount location.

Expansion of distribution and transmission lines and related facilities is a necessary consequence of growth and development. In addition to adding new distribution feeders, the range of electric system improvements needed to accommodate growth may include upgrading existing substation and transmission line equipment, expanding existing substations to their ultimate buildout capacity, and building new substations and interconnecting transmission lines. Comparable upgrades or additions needed to accommodate additional load on the gas system could include facilities such as regulator stations, odorizer stations, valve lots, distribution and transmission lines.

We would like to recommend that environmental documents for proposed development projects include adequate evaluation of cumulative impacts to utility systems, the utility facilities needed to serve those developments and any potential environmental issues associated with extending utility service to the proposed project. this will assure the project's compliance with CEQA and reduce potential delays to the project schedule.

We also encourage the City of San Jose to include information about the issue of electric and magnetic fields (EMF) in the Notice of Preparation. It is PG&E's policy to share information and educate people about the issue of EMF.

> "Electric and Magnetic Fields (EMF) exist wherever there is electricity—in appliances, homes, shools and offices, and in power lines. There is no scientific consensus on the actual health effects of EMF exposure, but it is an issue of public concern. If you have questions about EMF, please call your local PG&E office. A package of information which includes materials from the California Department of Health Services and other groups will be sent to you upon your request".

PG&E remains committed to working with the City of San Jose to provide timely, reliable and cost effective gas and electric service to the planned area. We would also appreciate being copied on future correspondence regarding this subject as this project develops.

The California Constitution vests in the California Public Utilities Commission (CPUC) exclusive power and sole authority with respect to the regulation of privately owned or investor owned public utilities such as PG&E. This exclusive power extends to all aspects of the location, design, construction, maintenance and operation of public utility facilities. Nevertheless, the CPUC has provisions for regulated utilities to work closely with local governments and give due consideration to their concerns. PG&E must balance our commitment to provide due consideration to local concerns with our obligation to provide the public with a safe, reliable, cost-effective energy supply in compliance with the rules and tariffs of the CPUC.

Should you require any additional information or have any questions please call me at (408) 282-7389.

Sincerely,

Len Grilli
Land Agent

Santa Clara Valley Audubon Society
Founded 1926

Post-it™ Fax Note 7671 | Date 2/6/01 | # of pages ▶
To Nora Monette | From Ron Eddow
Co./Dept. DJ Powers | Co. CSJ Plng
Phone # | Phone #
Fax # 248-9641 | Fax #

Febroary 5, 2001

Mr. Ron Eddow, Senior Planner
Dept. of Planning, Building and Code Enforcement
801 North First Street, Room 400
San Jose, CA 95110-1795

RE: Creekside Plaza Draft Environmental Impact Report

Dear Mr. Eddow:

Thank you for the opportunity to comment on the Draft Environmental Impact Report (EIR) for the Creekside Plaza Site Development Permit (Project). Due to this area's relatively undeveloped state and the project's proximity to the high quality riparian habitat associated with Coyote Creek, the land on which this project is proposed to be built is environmentally sensitive. The applicant and the City of San Jose (City) must take greater consideration of this sensitivity and adjust the EIR so that it truly reflects the environmental impacts of this project.

Riparian Corridor

- We applaud the applicant's commitment to uphold the guidelines found in the Riparian Corridor Policy Study, including not only the 100' setback, but also other specifications relating to lighting and design orientation. However, according to the Biological Assessment in Appendix A, this project will result in "0.13 acres of indirect impacts occurring within the 100-foot setback." At a minimum, the EIR should acknowledge this impact within the text. Because the biological assessment found the riparian habitat to be of high quality, the EIR should also discuss specific measures to mitigate for these impacts.
- Page 30 of the EIR states, "To offset the impacts of the path associated with human activity, the project proposes to plant native trees . . ." This path accounts for 0.12 acres of the above-mentioned indirect impacts. If this statement is meant as a mitigation measure, it should be clearly stated as such, ensuring that the planting area is greater than or equal to 0.13 acres. In addition, the EIR should include a monitoring plan with measurable success criteria to ensure the health and productivity of the newly planted trees.

Fisheries Impacts

- According to the NOP comment letter submitted by the Santa Clara Valley Water District, Coyote Creek provides passage for both steelhead trout and Chinook salmon. While the EIR discusses potential impacts to the federally threatened steelhead, it does not address the potential presence of, or impacts to, Chinook salmon. Because of the salmon's status as a

22221 McClellan Road, Cupertino, CA 95014 Phone 408 • 252 • 3747 Fax 408 • 252 • 2850

sensitive species, the EIR should also acknowledge the potential impacts to this species and include any necessary mitigation measures.

- The EIR identifies sediment and other contaminants as potentially harmful substances when discharged into a creek. These substances are particularly threatening to the juvenile steelhead that are likely to inhabit Coyote Creek throughout the year. The EIR proposed to avoid the degradation of this sensitive aquatic habitat by complying with the NPDES General Construction Activity Storm Water Permit. Although this permit requires the preparation of a Storm Water Pollution Prevention Plan (SWPPP), this does not adequately mitigate the potentially significant impacts on aquatic habitat to a less that significant level. Recent research by SCVAS shows that a significant number of new development projects are out of compliance with their SWPPP's and that the City shows little success at adequately enforcing these permits. This fact is confirmed by the Regional Water Quality Control Board in their Notice of Violation dated December 2000 noting at least six sites currently in violation. The City even failed to respond adequately to the Notice by neglecting to complete all of the inspection required therein. Therefore, this mitigation has proven unsuccessful and cannot be relied upon in the manner this EIR attempts. A sufficient mitigation measure would instead spell out the measures to be taken on the site to reduce water quality impacts, provide measurable success criteria for those measures, and ensure an adequate level of enforcement (e.g. the site's erosion and sediment control measures will be inspected at least X times per week).

Burrowing Owl Habitat

- The EIR identifies the cumulative loss of Burrowing Owl habitat associated with the development of this 17-acre site as a significant unavoidable impact. Although the local impact will not be lessened, the applicant should mitigate this loss by acquiring and preserving 17 acres of land elsewhere in the region. The EIR discusses this possible mitigation plan, but fails to propose any such measures. Because a feasible mitigation measure exists, the EIR should require the applicant to address this impact.

Thank you for your time and attention to these comments. If you have any question, please contact me at (408) 252-3747.

Sincerely,

Jennifer Peritz

Jennifer Peritz
Conservation Assistant

MEMORANDUM

TO: City Council, City of San Jose
The Honorable, Ron Gonzales, Mayor
The Honorable, Chuck Reed, Councilman, Council District 4
Planning Commission, City of San Jose
The Honorable, Jay Ross, Chairman
James R. DerryBerry, Director
Planning, Building and Code Enforcement
City of San Jose
Ron Eddow, Senior Planner
Planning, Building and Code Enforcement
City of San Jose

FROM: Son Cheong Kuan
1419 Chavez Way
San Jose, CA 95131
Pager: (408) 343-9213
E-mail: skuan@juno.com

DATE: January 27, 2000

RE: Comment in regard to File No. H00-08-063

I would like to express my strong opinion in opposing the proposed development located at the northwest side of Ridder Park Drive between Brokaw Road, Coyote Creek and Interstate 880 in Council District 4, City of San Jose.

I have serious concerns about the traffic impact from this development as we all know and we are all too familiar with our traffic problem. This development will no doubt add significant traffic to the already congested industrial cluster.

With the passage of Measure A in the Election 2000, we, the voters, had expressed our strong opinions how disgust we were toward the congested traffic.

With the passage of Measure B in the Election 2000, we, the voters, had expressed our strong opinions how important it was to restore the value of our creeks.

With the passage of Measure K in the Election 2000, we, the voters, had expressed our strong opinions how important it was to preserve open space and our green foothill.

Can we achieve these with the benefit of the job creation? Yes, we can achieve these with significant change toward this development project.

We may come to the point that we not only need to encourage the use of public transit, but also we need to discourage, and perhaps "prohibit" the use of "private automobiles" in some areas. Adding 1,000+ parking spaces certainly do not encourage people taking public transit, it induces driving. Furthermore, it delays the on-time performance of the buses due to the congestion. Not to mention, it decrease the quality of life as we all know, and are all too familiar with. It does not get better before it gets worse.

I suggest to scale down the size of parking lots significantly, and waive the requirement providing the required parking spaces vs. the number of square footage in this development project.

We should preserve as much open space as we can on both banks of our creek, restore and return the value of our Coyote Creek. Coyote Creek is a beautiful natural resource beside the green foothill we all treasure. This would be a great place for workers to relax, and get away the hustling, and stressful workplace if we plan properly, e.g. some mixed-use development, and landscape the surrounding.

We should work with the VTA to expand bus routes and bus schedules.

We should start a plan to place light rail along Brokaw-Murphy-Hostetter forming a smaller loop for the "Golden Triangle", connecting Guadalupe Light Rail, Tasman Light Rail and Capital Light Rail, and a direct connection to the San Jose International Airport.

We do not need the outrageous number of parking spaces while we should work with and coordinate with VTA on the traffic relief.

I believe that traffic relief and open space preservation are high on the list of Councilman Reed. It will be a disservice to the voters if this project is approved as it is without significant change.

Thank you for your time and kind consideration.